

# Exhibit

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DEPOSITION OF MONICA DE LEON

Thursday, December 6, 2018

TAKEN BEFORE:

HEIDI BELTON, CSR, RPR, CRR, CCRR, CRC  
CSR No. 12885

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10:05 a.m.

Videotaped deposition of MONICA DE  
LEON, held at the offices of California  
Civil Rights Law Group, 180 Grand  
Avenue, Suite 1380, Oakland, California,  
before Heidi Belton, a Certified  
Shorthand Reporter, Registered  
Professional Reporter, Certified  
Realtime Reporter, California Certified  
Realtime Reporter, Certified Realtime  
Captioner

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10:19:59 1 understand what your job duties entailed.

10:20:01 2 **A. Okay.**

10:20:01 3 Q. Now you mentioned payroll. Could you --

10:20:05 4 could you tell me how that process worked in terms

10:20:07 5 of you processing payroll as a staff supervisor at

10:20:10 6 CitiStaff?

10:20:15 7 **A. So for payroll I took in everyone's hours**

10:20:21 8 **from the clients --**

10:20:21 9 Q. And -- sorry. I'm going to interrupt you

10:20:23 10 just because so I have context.

10:20:27 11 When you say "everyone's hours," whose

10:20:30 12 hours?

10:20:31 13 **A. All the workers, all the contractors.**

10:20:33 14 Q. And these are contractors that were hired

10:20:38 15 by CitiStaff?

10:20:39 16 **A. Yes.**

10:20:44 17 Q. So you took CitiStaff contractors' hours

10:20:48 18 and then -- what did you do with those hours?

10:20:51 19 **A. I would input them in the system. If**

10:20:59 20 **anyone was missing hours I would contact them to see**

10:21:02 21 **if they had sick hours or if -- if they were missing**

10:21:07 22 **or if there was any discrepancies. And then I would**

10:21:15 23 **send the hours in to Emilio at corporate.**

10:21:19 24 Q. All right. You would send these hours to

10:21:20 25 who?

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10:26:08 1 three different way of obtaining their checks. They  
10:26:12 2 could pick them up from you --

10:26:16 3 **A. (Witness nods.)**

10:26:16 4 Q. -- they could do a direct deposit, or they  
10:26:19 5 could actually get them from the facility where they  
10:26:22 6 were working?

10:26:23 7 **A. Correct.**

10:26:26 8 Q. And when you would drop the checks off at  
10:26:28 9 the facilities, who would you leave the checks with?

10:26:31 10 A. To whoever the main contact was.

10:26:44 11 Q. And did you ever drop off checks at the  
10:26:46 12 Tesla facility in Fremont, California?

10:26:52 13 A. In the beginning. And then they -- in the  
10:26:57 14 beginning, yes, I did drop them off.

10:27:00 15 Q. Do you remember who the contact was to  
10:27:02 16 whom you would hand the checks to?

10:27:03 17 **A. Nancy was the beginning. And then it**  
10:27:06 18 **became Vanessa.**

10:27:14 19 Q. And do you have any information or any  
10:27:15 20 knowledge of what the -- of whether Nancy was a  
10:27:17 21 Tesla employee or not?

10:27:18 22 MR. RUTSCHMAN: Objection; calls for  
10:27:18 23 speculation. Calls for a legal conclusion.

10:27:24 24 THE WITNESS: No, I don't.

10:27:25 25 BY MS. AVLONI:

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10:45:49 1 provide him with a start date -- scratch that.

10:45:56 2 At what point can an applicant candidate

10:45:59 3 become an employee; do you know?

10:46:01 4 MR. RUTSCHMAN: Objection; calls for a

10:46:02 5 legal conclusion.

10:46:04 6 THE WITNESS: Become an employee to who?

10:46:06 7 To CitiStaff or to --

10:46:08 8 BY MS. AVLONI:

10:46:08 9 Q. Let's say CitiStaff. Do you know if -- at

10:46:10 10 what point an applicant becomes an employee of

10:46:13 11 CitiStaff?

10:46:13 12 MR. RUTSCHMAN: Objection; calls for a

10:46:14 13 legal conclusion.

10:46:20 14 THE WITNESS: To start work or --

10:46:25 15 BY MS. AVLONI:

10:46:26 16 Q. Well, let's back up. Let's say --

10:46:28 17 A. **Can you explain that a little?**

10:46:29 18 Q. Yeah, yeah. I -- I'm as new to this area

10:46:33 19 in terms of understanding what CitiStaff does. So

10:46:36 20 some of my questions may not make sense and I'm more

10:46:38 21 than happy to try to clarify or rephrase.

10:46:41 22 A. **No worries. Thank you.**

10:46:43 23 Q. So let's say an applicant walks into the

10:46:45 24 CitiStaff doors and the applicant seems great and

10:46:47 25 you like the applicant and they submit their

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10:46:49 1 application and, you know, they're provided  
10:46:53 2 CitiStaff policies on various topics, including  
10:46:56 3 harassment. And CitiStaff likes them -- likes the  
10:46:59 4 candidate. Does CitiStaff -- can then CitiStaff  
10:47:03 5 bring on that candidate and say that, hey, we'll add  
10:47:12 6 you to our system as, like, an employee? Or -- is  
10:47:16 7 there a process for converting like a potential  
10:47:18 8 candidate to like a CitiStaff person?

10:47:22 9 MR. RUTSCHMAN: Objection; compound. It's  
10:47:23 10 vague and ambiguous.

10:47:26 11 THE WITNESS: Well, in a case like that,  
10:47:28 12 when someone comes in, fills out the application,  
10:47:36 13 they're already considered a CitiStaff employee, but  
10:47:39 14 they just haven't been dispatched out yet to go on  
10:47:47 15 an assignment. So --

10:47:49 16 BY MS. AVLONI:

10:47:49 17 Q. I see. Do the -- do the candidates'  
10:47:53 18 applications have to be approved by CitiStaff first  
10:47:56 19 before they become CitiStaff employees?

10:47:59 20 MR. RUTSCHMAN: Objection; calls for a  
10:48:00 21 legal conclusion.

10:48:03 22 THE WITNESS: Can you ex- -- rephrase that  
10:48:05 23 or say that again?

10:48:07 24 MS. AVLONI: Yeah. You know, you just  
10:48:09 25 mentioned that when candidates come in and fill out

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10:51:32 1 if in that case, the next step would be after them  
10:51:37 2 getting all their paperwork and a start date and  
10:51:42 3 everything, then they would be dispatched to -- to  
10:51:48 4 the job site or told when to show -- when to go, who  
10:51:52 5 to meet up with.

10:51:55 6 BY MS. AVLONI:

10:51:56 7 Q. When the CitiStaff employee is dispatched  
10:51:59 8 to the job site, is there continued interaction with  
10:52:06 9 the CitiStaff employee between you and the CitiStaff  
10:52:10 10 employee?

10:52:12 11 MR. RUTSCHMAN: Objection; it's an  
10:52:13 12 incomplete hypothetical. Also, misstates the  
10:52:15 13 witness' prior testimony.

10:52:20 14 THE WITNESS: After the -- in that case  
10:52:22 15 after the person goes -- gets sent out, dispatched  
10:52:25 16 to the job, there is communication because of their  
10:52:28 17 hours and payroll and, you know, follow-ups.

10:52:34 18 BY MS. AVLONI:

10:52:35 19 Q. So CitiStaff continues to handle its  
10:52:40 20 employees' hours and payroll after they're  
10:52:44 21 dispatched to a facility; is that correct?

10:52:46 22 A. Yes.

10:52:47 23 Q. In addition to overseeing its employees'  
10:52:54 24 hours and payroll information, is there anything  
10:52:58 25 else that CitiStaff does with regards to its

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10:53:03 1 employees after they're dispatched to a facility?

10:53:08 2 **A. No.**

10:53:09 3 Q. Okay.

10:53:13 4 MR. RUTSCHMAN: I'm going to issue a late

10:53:15 5 objection that the question is vague and ambiguous.

10:53:17 6 BY MS. AVLONI:

10:53:18 7 Q. How about -- you mentioned as part of your

10:53:23 8 duties -- correct my phrasing -- you also handled

10:53:30 9 complaints or issues; is that correct?

10:53:34 10 **A. Correct.**

10:53:37 11 Q. And could you describe to me what that

10:53:40 12 means, that as a staff supervisor you handled

10:53:42 13 complaints and/or issues.

10:53:47 14 **A. Anybody that had any type of issue or**

10:53:55 15 **complaint or maybe they just -- maybe they didn't**

10:53:59 16 **like the job, or maybe they didn't want to be**

10:54:08 17 **warehouse, they wanted to do the forklift. That**

10:54:15 18 **such [as said].**

10:54:16 19 Q. So if you could just give me the standard

10:54:19 20 issues or the most common issues that you would deal

10:54:21 21 with. You mentioned right now a CitiStaff employee

10:54:26 22 not liking their job or they wanted to handle a

10:54:29 23 different type of a position in the facility. Any

10:54:33 24 other typical complaints, issues that came to you?

10:54:39 25 MR. RUTSCHMAN: Objection; vague and

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11:14:03 1 employer -- like, twice a year or once a year saying  
11:14:06 2 hey, this is -- these are your strengths, these are  
11:14:09 3 your weaknesses, this is how you're doing, this is  
11:14:11 4 where we see you going. I'm not saying the  
11:14:14 5 performance review includes all of this. But this  
11:14:16 6 is what I mean by performance reviews when I'm  
11:14:18 7 talking about performance reviews in general.

11:14:20 8 So do you know if CitiStaff clients such  
11:14:24 9 as Tesla issued performance reviews to CitiStaff  
11:14:30 10 employees?

11:14:31 11 MR. RUTSCHMAN: Objection; vague and  
11:14:31 12 ambiguous. Calls for speculation.

11:14:35 13 THE WITNESS: So what I recall, yes, they  
11:14:36 14 would give some every now and then.

11:14:40 15 BY MS. AVLONI:

11:14:40 16 Q. And so you recall specifically Tesla  
11:14:42 17 giving CitiStaff employees performance reviews now  
11:14:45 18 and then?

11:14:46 19 A. I re- --

11:14:47 20 MR. RUTSCHMAN: Objection; vague and  
11:14:47 21 ambiguous. Calls for speculation.

11:14:49 22 THE WITNESS: I recall nextSource.

11:14:55 23 BY MS. AVLONI:

11:14:55 24 Q. You recall nextSource giving CitiStaff  
11:14:57 25 employees performance reviews; is that correct?

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11:14:59 1       A.     Mm-hmm.  
11:15:00 2                   MR. RUTSCHMAN: Objection; vague and  
11:15:01 3     ambiguous.  
11:15:03 4     BY MS. AVLONI:  
11:15:03 5                   Q. And do you know how often nextSource  
11:15:04 6     would give CitiStaff employees performance reviews?  
11:15:12 7                   MR. RUTSCHMAN: Objection; vague and  
11:15:12 8     ambiguous. Calls for speculation.  
11:15:15 9                   THE WITNESS: No, I don't remember.  
11:15:16 10    BY MS. AVLONI:  
11:15:25 11                  Q. Did you conduct any investigations while  
11:15:30 12     working as a staff supervisor at CitiStaff?  
11:15:32 13                  MR. RUTSCHMAN: Objection; vague and  
11:15:32 14     ambiguous.  
11:15:38 15                  THE WITNESS: Yes.  
11:15:40 16    BY MS. AVLONI:  
11:15:41 17                  Q. How many investigations have you handled  
11:15:42 18     as a staff supervisor?  
11:15:44 19                  MR. RUTSCHMAN: Objection; vague and  
11:15:44 20     ambiguous.  
11:15:52 21                  THE WITNESS: One. One or two.  
11:15:54 22    BY MS. AVLONI:  
11:15:55 23                  Q. Do you recall the nature of those  
11:15:59 24     investigations, what they involved?  
11:16:06 25                  MR. RUTSCHMAN: Objection; vague and

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11:44:15 1 Q. Did you -- other than being trained by the  
11:44:18 2 individual whose position you took over, did you  
11:44:21 3 receive any other training from CitiStaff?  
11:44:24 4 MR. RUTSCHMAN: Objection; vague and  
11:44:24 5 ambiguous.  
11:44:26 6 THE WITNESS: No.  
11:44:27 7 BY MS. AVLONI:  
11:44:27 8 Q. Did you receive any training from any  
11:44:29 9 organizations that were hired by CitiStaff to  
11:44:32 10 perform the training?  
11:44:33 11 MR. RUTSCHMAN: Objection; vague and  
11:44:33 12 ambiguous.  
11:44:36 13 THE WITNESS: No.  
11:44:36 14 BY MS. AVLONI:  
11:44:38 15 Q. Were you ever trained by CitiStaff or  
11:44:40 16 anybody hired by CitiStaff on harassment policies?  
11:44:44 17 MR. RUTSCHMAN: Objection; compound.  
11:44:46 18 Vague and ambiguous.  
11:44:49 19 THE WITNESS: No.  
11:44:49 20 BY MS. AVLONI:  
11:44:53 21 Q. How about were you trained by CitiStaff or  
11:44:58 22 anybody that was hired by CitiStaff on  
11:45:01 23 discrimination policies?  
11:45:02 24 MR. RUTSCHMAN: Objection; compound.  
11:45:04 25 Vague and ambiguous.

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11:45:06 1                   THE WITNESS: No.

11:45:06 2                   BY MS. AVLONI:

11:45:08 3                   Q. How about retaliation policies?

11:45:11 4                   MR. RUTSCHMAN: Same objections.

11:45:12 5                   THE WITNESS: No.

11:45:13 6                   BY MS. AVLONI:

11:45:18 7                   Q. Do you know how many clients CitiStaff

11:45:20 8                   has?

11:45:22 9                   MR. RUTSCHMAN: Objection; calls for

11:45:22 10                  speculation.

11:45:24 11                  THE WITNESS: At the time it was about

11:45:30 12                  five.

11:45:31 13                  BY MS. AVLONI:

11:45:32 14                  Q. And Tesla was one of those clients?

11:45:34 15                  A. Yes.

11:45:34 16                  Q. Do you know who the other clients were?

11:45:38 17                  MR. RUTSCHMAN: Objection; calls for

11:45:39 18                  confidential business information. I'm going to

11:45:42 19                  instruct her not to answer that question.

11:45:46 20                  BY MS. AVLONI:

11:45:46 21                  Q. Are you going to take your attorney's

11:45:47 22                  instructions?

11:45:48 23                  A. Yes.

11:45:51 24                  Q. And do you know approximately how many

11:45:54 25                  contractors CitiStaff had when you were working

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11:52:42 1 Q. Yes, so if I'm talking about -- I'll  
11:52:46 2 refer -- I'll be -- let's refer to them as CitiStaff  
11:52:49 3 contractors for now to make it more clear.

11:52:51 4 So these CitiStaff contractors, so when  
11:52:54 5 they would receive a raise, that information would  
11:52:57 6 come to you from nextSource, and you would notify  
11:53:05 7 Emilio and then CitiStaff would implement that raise  
11:53:08 8 and it would be reflected in the employee -- in the  
11:53:11 9 CitiStaff contractor's paycheck; is that correct?

11:53:14 10 MR. RUTSCHMAN: Objection; compound.

11:53:15 11 Incomplete hypothetical.

11:53:18 12 BY MS. AVLONI:

11:53:18 13 Q. And correct me if I'm wrong; if any part  
11:53:21 14 of this is wrong. I just want to understand the  
11:53:24 15 process.

11:53:25 16 A. So in the case a CitiStaff contractor  
11:53:27 17 would get a raise they would -- nextSource would  
11:53:30 18 send it to me. And then I would confirm it with  
11:53:33 19 Emilio, let Emilio know, make those changes in the  
11:53:38 20 pay rate so it can reflect on their check as of the  
11:53:41 21 date that nextSource put in the e-mail.

11:53:45 22 Q. Okay. Did you consider yourself -- aside  
11:53:51 23 from any legal jargon -- did you consider CitiStaff  
11:53:56 24 contractors to be CitiStaff employees?

11:53:59 25 MR. RUTSCHMAN: Objection; calls for a

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11:54:00 1 legal conclusion.

11:54:05 2 THE WITNESS: So can you repeat that

11:54:06 3 question?

11:54:06 4 BY MS. AVLONI:

11:54:07 5 Q. Yeah. Did you consider the people that

11:54:08 6 were CitiStaff contractors to be working for

11:54:11 7 CitiStaff?

11:54:12 8 MR. RUTSCHMAN: Objection; vague,

11:54:14 9 ambiguous, calls for a legal conclusion.

11:54:17 10 THE WITNESS: Well, since CitiStaff paid

11:54:19 11 them and gave them their check, I did consider them

11:54:25 12 working for Citistaff.

11:54:26 13 BY MS. AVLONI:

11:54:33 14 Q. Is there -- how about writeups? Are you

11:54:46 15 aware of any CitiStaff contractors receiving

11:54:52 16 writeups?

11:54:54 17 MR. RUTSCHMAN: Objection; vague and

11:54:54 18 ambiguous.

11:54:56 19 THE WITNESS: I don't recall.

11:54:57 20 BY MS. AVLONI:

11:54:57 21 Q. Have you ever issued any writeups to

11:55:00 22 CitiStaff contractors?

11:55:02 23 MR. RUTSCHMAN: Objection; vague and

11:55:02 24 ambiguous.

11:55:04 25 THE WITNESS: I wasn't -- I didn't have

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11:55:06 1 authority to do that.

11:55:08 2 BY MS. AVLONI:

11:55:09 3 Q. Who had authority to issue raises to

11:55:13 4 CitiStaff contractors?

11:55:14 5 MR. RUTSCHMAN: Objection; calls for

11:55:14 6 speculation.

11:55:18 7 THE WITNESS: On what -- what side? So

11:55:23 8 Can you repeat the question?

11:55:25 9 BY MS. AVLONI:

11:55:25 10 Q. Sure. I'll actually ask it differently.

11:55:28 11 Did CitiStaff have the ability to

11:55:31 12 recommend raises for CitiStaff contractors?

11:55:36 13 MR. RUTSCHMAN: Objection; calls for

11:55:36 14 speculation.

11:55:45 15 THE WITNESS: I wasn't -- I didn't have

11:55:46 16 the authority to give a raise. So -- but if the

11:55:55 17 client sent us any raises or change of pay rates,

11:56:01 18 then I would take actions --

11:56:05 19 BY MS. AVLONI:

11:56:05 20 Q. To make it happen --

11:56:07 21 A. **To make it happen with Emilio and --**

11:56:10 22 Q. So your understanding is that the client

11:56:14 23 would recommend the raises and that CitiStaff would

11:56:18 24 implement those raises?

11:56:20 25 A. So the client would send us any raises or

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11:56:25 1 reviews and we would process as follows, yes.

11:56:33 2 Q. Okay. Have you ever denied a client's

11:56:36 3 request to raise someone's salary?

11:56:39 4 A. No.

11:56:40 5 Q. So you've always authorized all raises

11:56:43 6 that were coming in from clients?

11:56:45 7 MR. RUTSCHMAN: Objection; it's vague and

11:56:47 8 ambiguous.

11:56:47 9 BY MS. AVLONI:

11:56:48 10 Q. Let me rephrase it. That was vague and

11:56:50 11 ambiguous.

11:56:51 12 So would CitiStaff to your knowledge

11:56:56 13 pretty much always authorize all raise --

11:57:06 14 recommendations for employees -- for CitiStaff

11:57:09 15 contractors coming from clients?

11:57:10 16 MR. RUTSCHMAN: Objection; it's vague and

11:57:11 17 ambiguous. Calls for speculation.

11:57:14 18 THE WITNESS: So for CitiStaff

11:57:17 19 contractors, whenever nextSource would send us any

11:57:22 20 pay rate changes or increases, raises, I would send

11:57:28 21 them to Emilio. Send the e-mail to have a

11:57:34 22 confirm -- confirmation of it, a written consent.

11:57:36 23 And we would process it as follows.

11:57:38 24 BY MS. AVLONI:

11:57:39 25 Q. Okay. Did CitiStaff have authority, do

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12:04:26 1 BY MS. AVLONI:

12:04:27 2 Q. And sitting here today you know that you  
12:04:29 3 didn't have the authority to issue them writeups?

12:04:31 4 A. I know I didn't, yeah.

12:04:35 5 Q. Have you ever had a situation where, let's  
12:04:37 6 say, several clients were unhappy with a CitiStaff  
12:04:41 7 contractor and there are several complaints, let's,  
12:04:43 8 say, serious complaints about a CitiStaff  
12:04:45 9 contractor, have you ever had a situation where  
12:04:49 10 CitiStaff decided to fire that particular  
12:04:52 11 contractor?

12:04:53 12 MR. RUTSCHMAN: Objection; vague,  
12:04:54 13 ambiguous. Constitutes an incomplete hypothetical.

12:04:58 14 THE WITNESS: No, I haven't had a  
12:04:59 15 situation like that.

12:05:00 16 BY MS. AVLONI:

12:05:02 17 Q. Do you know if CitiStaff has authority to  
12:05:04 18 fire its contractors?

12:05:07 19 MR. RUTSCHMAN: Calls for speculation.

12:05:07 20 THE WITNESS: That I do not know.

12:05:08 21 BY MS. AVLONI:

12:05:09 22 Q. Have you ever fired a contractor?

12:05:12 23 A. No.

12:05:13 24 Q. Have you ever participated --

12:05:14 25 MR. RUTSCHMAN: Objection -- sorry --

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12:23:51 1 THE WITNESS: I don't remember when I  
12:23:52 2 first -- first started. Well, I believe so, yes.  
12:24:09 3 BY MS. AVLONI:  
12:24:09 4 Q. And do you know if Tesla was ever a client  
12:24:13 5 of CitiStaff?  
12:24:16 6 MR. RUTSCHMAN: Objection; calls for  
12:24:16 7 speculation.  
12:24:20 8 THE WITNESS: No.  
12:24:20 9 BY MS. AVLONI:  
12:24:20 10 Q. It was just -- to your knowledge you  
12:24:22 11 believe nextSource was a client and to your  
12:24:24 12 knowledge you don't believe that Tesla was a client  
12:24:28 13 of CitiStaff when you were there?  
12:24:30 14 MR. RUTSCHMAN: Objection; misstates the  
12:24:31 15 witness' prior testimony.  
12:24:32 16 THE WITNESS: To my knowledge CitiStaff  
12:24:37 17 helped nextSource provide contractors for -- to  
12:24:40 18 work at Tesla for Tesla.  
12:24:43 19 BY MS. AVLONI:  
12:24:43 20 Q. Okay. Did nextSource have -- to your  
12:24:52 21 knowledge and based on your job duties as a staff  
12:24:54 22 supervisor -- do you know if CitiStaff gave  
12:25:00 23 nextSource the power to issue its contractors  
12:25:08 24 raises?  
12:25:09 25 MR. RUTSCHMAN: Objection; vague,

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12:25:14 1 ambiguous, and calls for speculation.  
12:25:21 2 THE WITNESS: To my knowledge nextSource  
12:25:23 3 did provide CitiStaff with raises for CitiStaff  
12:25:26 4 contractors through the time that I was there.  
12:25:29 5 BY MS. AVLONI:  
12:25:30 6 Q. And nextSource had agreed to provide and  
12:25:33 7 recommend promotions for CitiStaff employees?  
12:25:35 8 MR. RUTSCHMAN: Objection; calls for  
12:25:35 9 speculation.  
12:25:39 10 THE WITNESS: nextSource did provide  
12:25:44 11 CitiStaff with raises and promotions.  
12:25:50 12 BY MS. AVLONI:  
12:25:50 13 Q. And do you know if nextSource's had the  
12:25:54 14 ability to discipline CitiStaff employees?  
12:25:58 15 MR. RUTSCHMAN: Objection; vague and  
12:25:58 16 ambiguous. Calls for speculation.  
12:26:07 17 THE WITNESS: Discipline? As far as --  
12:26:09 18 BY MS. AVLONI:  
12:26:09 19 Q. Issuing termination, issuing suspicion,  
12:26:12 20 writeup.  
12:26:13 21 A. Yes.  
12:26:14 22 MR. RUTSCHMAN: Same objections.  
12:26:15 23 BY MS. AVLONI:  
12:26:15 24 Q. And to your knowledge nextSource had the  
12:26:18 25 ability to demote CitiStaff contractors?

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12:26:22 1 MR. RUTSCHMAN: Objection; calls for  
12:26:22 2 speculation.

12:26:24 3 THE WITNESS: To my knowledge they did  
12:26:25 4 provide us with a few promotions and demotions.

12:26:32 5 BY MS. AVLONI:

12:26:33 6 Q. And to your knowledge nextSource had  
12:26:37 7 this ability because of the type of relationship  
12:26:39 8 that CitiStaff had with nextSource; is that  
12:26:42 9 correct?

12:26:42 10 MR. RUTSCHMAN: Objection; calls for  
12:26:42 11 speculation. It's vague and ambiguous.

12:26:47 12 THE WITNESS: That I do not know.

12:26:48 13 BY MS. AVLONI:

12:26:49 14 Q. Do you know if Tesla had the ability to  
12:27:01 15 demand raises for CitiStaff contractors that were  
12:27:04 16 working in its facility?

12:27:05 17 MR. RUTSCHMAN: Objection; calls for  
12:27:05 18 speculation.

12:27:09 19 THE WITNESS: From what I know  
12:27:15 20 supervisors, Tesla supervisors would speak with  
12:27:18 21 nextSource and tell them about a certain  
12:27:20 22 individual that they felt was doing great. But  
12:27:25 23 other than that, as far as like overview, I don't  
12:27:32 24 know anything else.

12:27:33 25 BY MS. AVLONI:

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12:27:33 1 Q. And how would you know -- how did you come  
12:27:36 2 to know that in some situations Tesla supervisors  
12:27:40 3 would tell nextSource that a CitiStaff contractor  
12:27:43 4 is doing great?

12:27:44 5 A. nextSource would tell me. Sometimes  
12:27:46 6 when I would speak with a few of them they'll let us  
12:27:50 7 know and -- before they would send us the actual  
12:27:59 8 e-mail consenting of their raise.

12:28:01 9 Q. Have you ever seen nextSource decline a  
12:28:07 10 raise request by a Tesla supervisor?

12:28:09 11 A. No, I haven't seen that.

12:28:12 12 Q. Okay. Do you know if Tesla has the  
12:28:15 13 ability to recommend promotions for CitiStaff  
12:28:19 14 contractors working in the Tesla facility?

12:28:21 15 MR. RUTSCHMAN: Objection; calls for  
12:28:21 16 speculation.

12:28:28 17 THE WITNESS: Can you repeat the question.

12:28:29 18 BY MS. AVLONI:

12:28:29 19 Q. I know. This verbiage gets all confusing.  
12:28:32 20 Do you know if Tesla employees have the  
12:28:39 21 ability to recommend promotions for CitiStaff  
12:28:46 22 contractors --

12:28:47 23 MR. RUTSCHMAN: Objection; calls for  
12:28:47 24 speculation.

12:28:48 25 BY MS. AVLONI:

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12:28:48 1 Q. -- that are working in the Tesla facility?

12:28:52 2 A. **No, I do not know.**

12:28:56 3 Q. Do you know if Tesla has the ability to  
12:29:02 4 recommend discipline for CitiStaff contractors  
12:29:06 5 working in a Tesla facility?

12:29:09 6 MR. RUTSCHMAN: Objection; calls for  
12:29:09 7 speculation.

12:29:10 8 THE WITNESS: No, I do not.

12:29:16 9 BY MS. AVLONI:

12:29:16 10 Q. Do you know if Tesla has the ability to  
12:29:19 11 recommend termination of a relationship between a  
12:29:21 12 CitiStaff contractor working at its facility?

12:29:26 13 MR. RUTSCHMAN: Objection; calls for  
12:29:26 14 speculation.

12:29:31 15 THE WITNESS: In that case I would say  
12:29:32 16 yes. If there is -- if they're in a department  
12:29:37 17 that's far away or -- and they're being supervised  
12:29:43 18 by them and that supervisor, then, yes, I would say  
12:29:47 19 in that case they would be able to tell nextSource  
12:29:51 20 about the worker's performance.

12:29:59 21 BY MS. AVLONI:

12:30:00 22 Q. Do you know if nextSource -- isn't it  
12:30:03 23 true that nextSource is kind of just like a  
12:30:05 24 middleman between CitiStaff providing employee --  
12:30:09 25 contractors to nextSource and then nextSource

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12:43:25 1 concern to you about Owen, did you communicate this  
12:43:28 2 concern to nextSource?

12:43:35 3 **A. Not after Rothaj first told me. I had**  
12:43:41 4 **communicated just with Owen to let me know. Or to**  
12:43:47 5 **let -- to let him know.**

12:43:51 6 Q. How about did you communicate anything to  
12:43:53 7 Tesla after Rothaj brought the concern to you?

12:43:57 8 **A. No, not to Tesla.**

12:43:59 9 Q. Did you communicate the concern up to  
12:44:03 10 William?

12:44:07 11 **A. That after Rothaj told me, no.**

12:44:10 12 Q. How about Vanessa?

12:44:12 13 **A. No.**

12:44:16 14 Q. How about Bruce?

12:44:17 15 **A. I think I may have spoke with Bruce and**  
12:44:20 16 **mentioned it from what I recall.**

12:44:28 17 Q. How about Judy?

12:44:28 18 **A. No, I didn't talk to Judy.**

12:44:30 19 Q. And the -- when the other person came  
12:44:33 20 forward and brought up concerns about Owen, did you  
12:44:37 21 communicate those concerns to nextSource?

12:44:42 22 **A. No.**

12:44:43 23 Q. Did you communicate those concerns to  
12:44:45 24 Tesla?

12:44:45 25 **A. No.**

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12:44:46 1 Q. To William?  
12:44:48 2 A. No.  
12:44:48 3 Q. Bruce?  
12:44:49 4 A. To Bruce.  
12:44:51 5 Q. How about to Judy?  
12:44:58 6 A. Not that I remember.  
12:44:59 7 Q. Vanessa?  
12:44:59 8 A. Not that I remember, no.  
12:45:00 9 Q. When you communicated to Bruce the  
12:45:04 10 information that Rothaj brought forward to you about  
12:45:07 11 Owen, what did Bruce tell you?  
12:45:09 12 A. So from what I can remember when I told  
12:45:15 13 Bruce about it, Bruce asked me if the client has  
12:45:20 14 anything said about Owen. And I said no, I haven't  
12:45:26 15 received any phone calls or e-mails, which I hadn't.  
12:45:30 16 So he told me, you know, speak with the candidate,  
12:45:35 17 the contractor -- you know, speak with them again --  
12:45:41 18 let them know that this is a pattern that several  
12:45:45 19 people have seen. And this can -- that can possibly  
12:45:48 20 lead into disciplinary actions, depending on what  
12:45:56 21 the client wants to do. And then, you know, just  
12:46:00 22 take it from there. So um --  
12:46:05 23 Q. And did you communicate that to Owen?  
12:46:07 24 A. Yes.  
12:46:07 25 Q. You told him that this pattern can lead to

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12:48:49 1 Q. These are the only two that you recall?

12:48:55 2 A. **Yeah.**

12:48:56 3 MR. RUTSCHMAN: Is that a yes?

12:48:56 4 THE WITNESS: Yes.

12:48:56 5 BY MS. AVLONI:

12:48:57 6 Q. And referring to Owen bringing concerns,

12:49:00 7 you recall him bringing two concerns to your

12:49:02 8 attention, one about the picture and the other one

12:49:04 9 about the altercation with Rothaj; is that correct?

12:49:06 10 A. **Correct.**

12:49:08 11 Q. In regards to the picture, when he

12:49:15 12 communicated that concern to you, what did you do?

12:49:17 13 A. **So when he told me about it, you know, due**

12:49:25 14 **to the fact that we take it seriously, we**

12:49:30 15 **immediately took it up to HR -- Judy -- and let my**

12:49:38 16 **supervisors know about it as well, which they said**

12:49:44 17 **to talk to Judy for this case.**

12:49:51 18 Q. Did you talk to Judy?

12:49:53 19 A. **Yes, I did.**

12:49:57 20 Q. What did you guys discuss?

12:49:59 21 A. I told Judy about, you know -- I told Judy

12:50:03 22 that I discussed -- spoke with Owen, you know. I

12:50:09 23 checked in to -- with him to see do you -- are you

12:50:19 24 going to return to your -- to your job. He said

12:50:22 25 yes. I asked him if he wanted to be moved to a

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12:50:26 1 different department. He said no. You know, he was  
12:50:33 2 upset and a little aggravated. But I let him know  
12:50:42 3 that I'm -- HR is going to deal with this. I have  
12:50:47 4 already brought it up to them to their immediate  
12:50:50 5 attention. I let my supervisors know. And I let  
12:50:57 6 Chartwell -- I gave them the okay to consent to  
12:51:00 7 speak with Owen Diaz.

12:51:12 8 Q. Do you recall discussing anything else  
12:51:13 9 with Owen Diaz regarding this situation? I'm sorry,  
12:51:19 10 actually. You were describing to me the  
12:51:20 11 conversation you had with Judy; right?

12:51:24 12 A. Yes.

12:51:25 13 Q. Because -- let's back up. Let's get a  
12:51:27 14 clear record.

12:51:27 15 So when Owen raised the concern about the  
12:51:33 16 picture to you, you talked to Owen. And what did he  
12:51:42 17 tell you?

12:51:45 18 MR. RUTSCHMAN: Objection; asked and  
12:51:45 19 answered.

12:51:50 20 THE WITNESS: So he pretty much told me  
12:51:53 21 how -- what happened, how he came across the  
12:51:58 22 picture. You know, he felt that the rac- -- the  
12:52:07 23 picture was racist and that he wanted to make a  
12:52:17 24 complaint.

12:52:21 25 BY MS. AVLONI:

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01:13:10 1 The supervisors weren't aware as well. They were  
01:13:15 2 aware that he was leaving during the time that I had  
01:13:17 3 mentioned to them -- to nextSource. But he was  
01:13:22 4 gone for an additional two, three days. So I  
01:13:27 5 didn't -- I didn't know until I spoke with  
01:13:32 6 nextSource and Owen.

01:13:37 7 Q. Did Owen tell you why he was gone for an  
01:13:39 8 extra two, three days?

01:13:41 9 A. He had said that he had told his  
01:13:42 10 supervisors that he was going to be gone for an  
01:13:49 11 extra few days, that he called in. But he never  
01:13:52 12 told me that.

01:13:53 13 Q. Was he required to tell you that?

01:13:55 14 A. Yes. To let the supervisors know and, you  
01:13:59 15 know, us at the office know; that way there's record  
01:14:02 16 on both ends.

01:14:04 17 And I would always let all the temp- --

01:14:07 18 the contractor workers know that, you know, if

01:14:10 19 there's ever an issue to arise, let me know. Let

01:14:15 20 your supervisors know. If for whatever reason you

01:14:18 21 can't contact your supervisor, let me know. I can

01:14:21 22 get in contact with them, let them know, whatever

01:14:23 23 the case is. Any last-minute issues, you just call

01:14:27 24 in, let me know.

01:14:29 25 Q. Do you know if Owen Diaz also went on

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01:18:06 1           **A.**   **A what kind of policy?**  
01:18:09 2           **Q.**   Bereavement.  
01:18:11 3                           MR. RUTSCHMAN: Bereavement.  
01:18:12 4   BY MS. AVLONI:  
01:18:13 5           **Q.**   Bereavement.  
01:18:13 6           **A.**   **Oh --**  
01:18:14 7                           MR. RUTSCHMAN: Objection; calls for  
01:18:14 8   speculation.  
01:18:15 9   BY MS. AVLONI:  
01:18:15 10           **Q.**   Leave policy.  
01:18:16 11           **A.**   **That I don't know.**  
01:18:16 12           **Q.**   Do you know if nextSource has a  
01:18:19 13   bereavement leave policy?  
01:18:21 14                           MR. RUTSCHMAN: Objection; calls for  
01:18:21 15   speculation.  
01:18:22 16                           THE WITNESS: That I don't know.  
01:18:23 17   BY MS. AVLONI:  
01:18:24 18           **Q.**   Tesla? Do you know whether Tesla has such  
01:18:26 19   a policy?  
01:18:28 20                           MR. RUTSCHMAN: Objection; calls for  
01:18:28 21   speculation.  
01:18:29 22                           THE WITNESS: That I don't know.  
01:18:30 23   BY MS. AVLONI:  
01:18:30 24           **Q.**   Did you try to place Owen at another  
01:18:34 25   facility after he was separated from Tesla?

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01:18:37 1 MR. RUTSCHMAN: Objection; vague and  
01:18:38 2 ambiguous.  
01:18:42 3 THE WITNESS: I did mention that, you  
01:18:45 4 know, we could possibly place him somewhere else.  
01:18:48 5 But it wouldn't be making the same amount of money  
01:18:51 6 that he was making there. And he just -- basically  
01:18:57 7 he didn't want to hear it. He was like F that.  
01:19:00 8 Thirteen dollars ain't -- ain't shit, basically.  
01:19:07 9 So -- you know, I tried to get him to calm  
01:19:15 10 down by telling him hey, you know, I could probably  
01:19:18 11 place you somewhere else. You're not just -- you  
01:19:21 12 know, your assignment didn't work here, you know, it  
01:19:24 13 ended here. But, you know, do you want to try  
01:19:27 14 something else. And he didn't. He didn't want to  
01:19:30 15 do anything else basically. So --  
01:19:33 16 BY MS. AVLONI:  
01:19:33 17 Q. Was Tesla -- do you know if Tesla paid the  
01:19:37 18 highest rate to CitiStaff contractors?  
01:19:40 19 MR. RUTSCHMAN: Objection; calls for  
01:19:40 20 speculation.  
01:19:45 21 THE WITNESS: I don't know if Tesla paid  
01:19:47 22 the highest rate to Citistaff contractors. But when  
01:19:51 23 a lot of people hear Tesla, it's a well-known  
01:19:55 24 manufacturer for these electric cars. So when  
01:19:58 25 people hear Tesla, everybody just wants to work at

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01:21:03 1 Q. Did you have any client that paid more  
01:21:05 2 than \$16 an hour?

01:21:07 3 A. I don't think so. Other than Tesla.

01:21:13 4 MS. AVLONI: What time is it right now?

01:21:15 5 It's 1:21 p.m. It makes sense, I think, to go on a

01:21:19 6 break.

01:21:21 7 MR. RUTSCHMAN: Yes.

01:21:21 8 MS. AVLONI: Okay. So it is 1:21 and

01:21:24 9 we're going off the record.

01:21:25 10 (Recess taken from 1:21 p.m. to 2:18 p.m.)

02:18:36 11 MS. AVLONI: The time is now 2:18 p.m.

02:18:38 12 And we're back on the record.

02:18:42 13 Q. Ms. De Leon, what is your current address?

02:18:48 14 A. My --

02:18:49 15 MR. RUTSCHMAN: Objection; privacy. She's

02:18:51 16 represented in this action, so you can contact her

02:18:54 17 through our firm.

02:18:55 18 MS. AVLONI: And will you --

02:18:56 19 MR. RUTSCHMAN: I'm going to instruct her

02:18:58 20 not to answer.

02:18:58 21 MS. AVLONI: And will you agree to accept

02:19:00 22 a subpoena on behalf of Ms. De Leon, trial subpoena?

02:19:05 23 MR. RUTSCHMAN: Yes.

02:19:06 24 BY MS. AVLONI:

02:19:06 25 Q. And you're okay with your attorney

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03:02:38 1 speculation. Asked and answered.

03:02:42 2 THE WITNESS: It was given to me as far as

03:02:48 3 I recall, yes.

03:02:49 4 BY MS. AVLONI:

03:02:49 5 Q. Did you ever provide a handbook like this

03:02:51 6 to any of the CitiStaff contractors?

03:02:55 7 A. Not that I recall.

03:02:57 8 Q. Were you the only individual who would

03:03:01 9 provide policies and handbook information from

03:03:06 10 CitiStaff to Citistaff contractors that were

03:03:12 11 working -- that are tied to the Newark area?

03:03:19 12 MR. RUTSCHMAN: Objection; calls for

03:03:19 13 speculation. Vague and ambiguous.

03:03:22 14 THE WITNESS: So as I stated earlier, I

03:03:24 15 was the one -- only one in the office, so I was the

03:03:27 16 one that gave them, you know, the applications that

03:03:33 17 included the policies and that such [as said].

03:03:36 18 BY MS. AVLONI:

03:03:36 19 Q. And you never gave them this policy?

03:03:39 20 A. This booklet? This --

03:03:40 21 Q. Correct. Book.

03:03:42 22 A. No.

03:03:44 23 Q. Okay. If you could look at page 5. On

03:03:46 24 the very bottom you will see that there's a portion

03:03:54 25 that's redacted and it continues to be redacted for

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03:23:57 1 **there were any other -- you know, if the client took**  
03:23:59 2 **down any statements or any reports; writing any --**  
03:24:06 3 **keeping track of anything in -- in the person's file**  
03:24:09 4 **in the system; making sure they had dates on**  
03:24:17 5 **everything; and keeping anything -- anything as far**  
03:24:20 6 **as e-mails that had to do with the situation.**

03:24:28 7 Q. Anything else that you recall included in  
03:24:31 8 Judy's training on investigations?

03:24:34 9 A. **No. Nothing else that I recall.**

03:24:37 10 Q. And when you say "contact the person in  
03:24:42 11 the incident," who does that refer to?

03:24:44 12 A. **Well, in the Owen Diaz case, contacting**  
03:24:47 13 **Owen Diaz.**

03:24:49 14 Q. Did Judy ever instruct you when conducting  
03:24:51 15 investigations to contact potential witnesses?

03:24:56 16 A. **Contacting anyone who was involved or may**  
03:25:03 17 **have been involved.**

03:25:04 18 Q. How about any -- did she ever instruct you  
03:25:06 19 on conducting investigations to contact anyone who  
03:25:09 20 might have observed the incident?

03:25:13 21 A. The question one more time? You're asking  
03:25:16 22 me did she tell me to contact, let's say, another  
03:25:20 23 person from another agency? If that's the question?

03:25:29 24 Q. When training you on investigations, did  
03:25:31 25 Judy ever tell you it's also important to talk to

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03:25:35 1 witnesses that observed the incident whether or not  
03:25:39 2 they were CitiStaff temporary or not?

03:25:49 3 **A.** It was more so she would tell me, you  
03:25:50 4 know, when you talk to the client, ask them if they  
03:25:53 5 have witness reports or any statement or any  
03:26:01 6 documentation from the other parties.

03:26:09 7 Q. In Owen Diaz' case, in regards to his  
03:26:12 8 complaint about the inappropriate picture, did you  
03:26:17 9 speak with nextSource about Owen's complaint?

03:26:25 10 A. Yes.

03:26:26 11 Q. Who did you speak to from nextSource?

03:26:33 12 A. I don't recall.

03:26:36 13 Q. Did you check with nextSource whether  
03:26:39 14 they took down any statements or prepared any  
03:26:42 15 reports?

03:26:43 16 A. Yes.

03:26:45 17 Q. And do you recall what nextSource said?

03:26:48 18 A. I had asked nextSource for -- oh, no.

03:26:56 19 That wasn't the -- that wasn't the picture  
03:26:58 20 situation. That was the other situation. So in the  
03:27:02 21 picture situation, no, I don't recall them having  
03:27:09 22 any witnesses or anything of that sort.

03:27:16 23 Q. Do you recall asking from nextSource  
03:27:20 24 whether there were any witnesses?

03:27:26 25 A. There was -- no, not as far as witnesses.

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03:27:29 1 Q. Meaning no, you did not ask nextSource  
03:27:30 2 or no, there were no witnesses that you're aware of?  
03:27:35 3 A. **There were no witnesses that I was aware**  
03:27:36 4 **of.**  
03:27:37 5 Q. But you would have asked nextSource;  
03:27:39 6 right?  
03:27:40 7 A. **Right.**  
03:27:40 8 MR. RUTSCHMAN: Objection; misstates the  
03:27:41 9 witness' prior testimony.  
03:27:45 10 THE WITNESS: So I would have asked them  
03:27:46 11 if there were, but there wasn't any.  
03:27:51 12 BY MS. AVLONI:  
03:27:52 13 Q. And would your questions to nextSource  
03:27:55 14 regarding this incident have been sent by e-mail or  
03:27:58 15 would you have posed these questions by phone?  
03:28:08 16 A. **By phone, both.**  
03:28:10 17 Q. And would you have saved your e-mails to  
03:28:14 18 the CitiStaff system?  
03:28:15 19 A. **Anything that I had saved at the time**  
03:28:18 20 **would have been in the system. But I don't know if**  
03:28:23 21 **anything is still in there.**  
03:28:24 22 Q. Understood. But you knew that based on  
03:28:26 23 what Judy instructed you, it was important to keep  
03:28:29 24 e-mails regarding the situation in the system;  
03:28:31 25 right?

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03:51:45 1 MR. RUTSCHMAN: Objection; the document  
03:51:47 2 speaks for itself.

03:51:48 3 THE WITNESS: His pay rate.

03:51:50 4 BY MS. AVLONI:

03:51:51 5 Q. Is that the new pay rate, the raise, or  
03:51:53 6 the previous pay raise?

03:51:55 7 A. That would be the new pay rate from his  
03:51:57 8 raise that he got.

03:51:58 9 Q. So what the document is saying is that  
03:52:01 10 somewhere in August 16 of 2015 Owen Diaz' pay rate  
03:52:06 11 increased to \$18?

03:52:08 12 A. Yes.

03:52:08 13 Q. And then do you know what the regular  
03:52:09 14 billing rate \$23.76 means?

03:52:13 15 A. That would have had to have been just in  
03:52:15 16 the contract between nextSource and --

03:52:20 17 Q. Do you know if that's the amount that  
03:52:23 18 CitiStaff billed nextSource for Owen's hourly  
03:52:29 19 rate?

03:52:30 20 A. I don't know.

03:52:31 21 Q. And then if you look at "Status." It says  
03:52:34 22 "3." Do you know what that means?

03:52:40 23 A. I forgot what that was.

03:52:42 24 Q. How about "Work code"? Do you know what  
03:52:45 25 that --

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04:09:47 1 Q. Thank you.  
04:09:48 2 A. **Thank you.**  
04:10:10 3 Q. If, let's say, a CitiStaff temporary  
04:10:11 4 employee made a complaint of some sort to one of  
04:10:18 5 CitiStaff's clients, was that -- is it typically the  
04:10:21 6 practice that those clients would then notify  
04:10:24 7 CitiStaff?  
04:10:25 8 MR. RUTSCHMAN: Objection; vague and  
04:10:25 9 ambiguous. Calls for speculation. Incomplete  
04:10:32 10 hypothetical.  
04:10:32 11 THE WITNESS: So in a case that a  
04:10:38 12 CitiStaff temp employee had an issue, is it the  
04:10:42 13 practice that they would tell the --  
04:10:46 14 BY MS. AVLONI:  
04:10:47 15 Q. No, I'm sorry. That's not my -- that  
04:10:49 16 wasn't my question.  
04:10:51 17 My question was if a CitiStaff temporary  
04:10:53 18 employee made a complaint to a CitiStaff client  
04:11:02 19 about any particular issue, is it generally the  
04:11:04 20 practice that those clients would then notify  
04:11:07 21 CitiStaff?  
04:11:07 22 MR. RUTSCHMAN: Objection; vague and  
04:11:07 23 ambiguous. Calls for speculation. Incomplete  
04:11:12 24 hypothetical.  
04:11:15 25 THE WITNESS: In a case that were to

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04:11:17 1 happen, they would generally advise me to let me  
04:11:21 2 know what's going on.

04:11:23 3 BY MS. AVLONI:

04:11:23 4 Q. But sitting here today you don't recall  
04:11:26 5 being advised that Owen Diaz was complaining of  
04:11:33 6 derogatory remarks back in summer and early fall of  
04:11:40 7 2015?

04:11:41 8 MR. RUTSCHMAN: Objection; asked and  
04:11:41 9 answered.

04:11:45 10 THE WITNESS: No.

04:11:46 11 BY MS. AVLONI:

04:12:08 12 Q. I'm sorry. Refresh my memory about  
04:12:12 13 Vanessa Parks. Vanessa Parks is the one who works  
04:12:14 14 for nextSource; right?

04:12:16 15 A. **She did payroll, yes, at nextSource.**

04:12:18 16 Q. And you don't recall Vanessa's last name  
04:12:20 17 that worked for CitiStaff?

04:12:23 18 MR. RUTSCHMAN: Objection; asked and  
04:12:23 19 answered.

04:12:25 20 BY MS. AVLONI:

04:12:26 21 Q. Correct?

04:12:28 22 A. **Correct, she worked.**

04:12:31 23 Q. Do you know who Devon Burkhard is?

04:12:38 24 A. **Devon -- last name?**

04:12:39 25 Q. Burkhard.

MONICA DE LEON

December 6, 2018

Page 269

05:27:27 1 THE WITNESS: No, I did not.

05:27:28 2 BY MR. RUTSCHMAN:

05:27:28 3 Q. To your knowledge, did anyone at CitiStaff

05:27:31 4 ever provide a copy of this employee handbook to any

05:27:34 5 CitiStaff temporary employees?

05:27:36 6 MS. AVLONI: Asked and answered.

05:27:36 7 THE WITNESS: No, no, not to my knowledge.

05:27:38 8 BY MR. RUTSCHMAN:

05:27:38 9 Q. As you sit here today, are you 100 percent

05:27:41 10 sure that any of the policies contained in this

05:27:44 11 handbook apply to the temporary CitiStaff employees?

05:27:49 12 MS. AVLONI: Calls for speculation.

05:27:49 13 THE WITNESS: No, I'm not 100 percent

05:27:50 14 sure.

05:27:59 15 MS. AVLONI: And misstates prior

05:27:59 16 testimony.

05:28:04 17 MR. RUTSCHMAN: Can I ask you to hand back

05:28:06 18 to the witness Exhibit 93, please.

05:28:59 19 (Reporter complies.)

05:29:00 20 Q. Did Owen Diaz ever inform you in March of

05:29:02 21 2016 that a doctor had placed him off work for three

05:29:06 22 weeks?

05:29:06 23 A. **No, he did not.**

05:29:08 24 Q. Is that something that Owen Diaz should

05:29:10 25 have reported to you as a CitiStaff temporary

MONICA DE LEON

December 6, 2018

**Page 274**

1 REPORTER'S CERTIFICATION

2

3 I, Heidi Belton, Certified Shorthand

4 Reporter in and for the State of California, do

5 hereby certify:

6

7 That the foregoing witness was by me duly  
8 sworn; that the deposition was then taken before me  
9 at the time and place herein set forth; that the  
10 testimony and proceedings were reported  
11 stenographically by me and later transcribed into  
12 typewriting under my direction; that the foregoing  
13 is a true record of the testimony and proceedings  
14 taken at that time.

15

16 IN WITNESS WHEREOF, I have subscribed my  
17 name on this date:

18

19

20

21

22

---

23 Heidi Belton, CSR, RPR, CRR, CCRR, CRC  
24 CSR No. 12885

25

# Exhibit 2

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

---oo---

DEMETRIC DI-AZ, OWEN DIAZ, and  
LAMAR PATTERSON,

Plaintiffs,  
vs.  
No. 3:17-cv-06748-WHO

TESLA, INC. Dba TESLA MOTORS,  
INC.; CITISTAFF SOLUTIONS,  
INC.; WEST VALLEY STAFFING  
GROUP; CHARTWELL STAFFING  
SERVICES, INC.; NEXTSOURCE,  
INC.; and DOES 1-50,  
inclusive,

Defendants.

/

DEPOSITION OF LUDIVINA LEDESMA

June 6, 2019

Reported by:

Bridget M. Mattos, CSR No. 11410

LUDIVINA LEDESMA

June 6, 2019

1                   BE IT REMEMBERED that, pursuant to  
2 Notice of Taking Deposition, and on June 6, 2019,  
3 commencing at the hour of 10:37 a.m., at California  
4 Civil Rights Group, 180 Grand Avenue, Oakland,  
5 California, before me, BRIDGET M. MATTOS, CSR No.  
6 11410, there personally appeared

7

8                   LUDIVINA LEDESMA,

9

10          called as a witness by Plaintiff, who, having been  
11 duly sworn, was examined and testified as is  
12 hereinafter set forth.

13                   ---oo---

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LUDIVINA LEDESMA

June 6, 2019

1 not in evidence.

2 THE WITNESS: Can you repeat the question?

3 MR. ORGAN: I'll rephrase it a little bit.

4 Q. Have you ever had any discussions with Monica  
5 De Leon about any issues relating to temporary  
6 associates at the Fremont factory of Tesla?

7 MR. LAFAYETTE: Objection. The question's  
8 overbroad, vague and ambiguous and uncertain and  
9 unintelligible. And could wind up violating the  
10 rights of privacy of certain individuals.

11 THE WITNESS: No.

12 MR. ORGAN: Q. Did you ever talk to Monica  
13 De Leon about any issues relating to Owen Diaz?

14 A. Yes, at the end.

15 Q. I think you said "yes, at the end"?

16 A. Yes.

17 Q. At the end of Mr. Diaz's assignment at the  
18 factory in Fremont?

19 A. No. When I said "at the end," it's after the  
20 investigations had concluded.

21 Q. Did Monica -- was it your understanding that  
22 Monica De Leon did an investigation into Mr. Owen  
23 Diaz's complaints at the Tesla factory?

24 MR. LAFAYETTE: Objection. Her understanding  
25 is irrelevant, 1. Number 2, you've already taken the

LUDIVINA LEDESMA

June 6, 2019

1 deposition of Monica De Leon, and so this is becoming  
2 argumentative and cumulative. Number 3, the question  
3 is vague and ambiguous in the use of the term, quote,  
4 "investigation," closed quote, in the context of the  
5 known facts in this case.

6 MS. SWAFFORD-HARRIS: I'm also going to  
7 object; that it's overbroad, and use of the word  
8 "complaint" is vague and ambiguous.

9 THE WITNESS: No.

10 MR. ORGAN: Q. You mentioned something about  
11 after the investigation, what did you mean by that?

12 A. I meant the last -- an email, it was an  
13 email. It was an email, and the last communication  
14 that I had with her, it was that I will talk to her in  
15 regards to Owen Diaz, but then there was nothing else  
16 for me to do, because it was already concluded, the  
17 investigation. They already had taken action.

18 Q. And what was the -- what was your  
19 understanding of the action that was taken relative to  
20 any investigation pertaining to Mr. Diaz?

21 A. They had given him a three-day suspension and  
22 a final warning.

23 Q. And the "him" being Ramon Martinez; correct?

24 A. Correct.

25 Q. So you were informed that Ramon Martinez was

LUDIVINA LEDESMA

June 6, 2019

1 MR. LAFAYETTE: Okay.

2 MR. ORGAN: Q. When someone -- when a  
3 temporary associate is onboarded for CitiStaff, do  
4 they receive any training on the issue of harassment  
5 or discrimination?

6 MR. LAFAYETTE: Objection to the use of the  
7 term, quote, "training," closed quote. In this  
8 context, it's vague and ambiguous.

9 You can answer.

10 THE WITNESS: Only from the forms that  
11 they've signed.

12 MR. ORGAN: Q. I see. So in terms of they  
13 read the policies, is that what you mean?

14 **A. Correct.**

15 Q. Other than providing policies to CitiStaff  
16 employee -- or temporary associates, is there any  
17 other type of training that is done to CitiStaff --  
18 for CitiStaff employees when they first start?

19 **A. No.**

20 Q. And then in terms of harassment or  
21 discrimination training that is done by CitiStaff for  
22 its temporary associates, is there any kind of ongoing  
23 training or regular training that is done for the  
24 temporary associates?

25 MR. LAFAYETTE: Objection to the use of the

LUDIVINA LEDESMA

June 6, 2019

1 MR. ORGAN: Okay. Well, let me ask just a  
2 couple preliminary questions.

3 MR. LAFAYETTE: That's why I thought the  
4 other exhibits might be a little more helpful.

5 MR. ORGAN: Okay. Let's see if we can get to  
6 that one.

7 Q. In terms of the text that is on the first  
8 page of 165, which is an email from Mr. Diaz to his  
9 supervisor, Mr. Romero, did you ever see that email?

10 A. **I don't recall.**

11 Q. Okay. Do you know who Wayne Jackson is?

12 A. **No.**

13 Q. And what about Victor Quintero, have you ever  
14 heard that name?

15 A. **No.**

16 Q. Did you review any documents relating to  
17 Mr. Quintero?

18 A. **No.**

19 Q. I'm going to show you what's been previously  
20 marked as Exhibit 132.

21 Exhibit 132, for the record, is an eight-page  
22 document Bates-stamped Tesla 730 to Tesla 737.

23 Have you ever seen this document before?

24 A. **No.**

25 Q. There's a reference here, if you look at the

LUDIVINA LEDESMA

June 6, 2019

1     bottom of page 730, the first page of Exhibit 132, and  
2     it says, "Attached you will find both statements from  
3     the alleged accuser and the alleged harasser. I  
4     reached out to Monica De Leon, branch manager from  
5     CitiStaff, and she gave me permission to interview  
6     Mr. Owen."

7                 Did Ms. De Leon ever talk to you about the  
8     fact that they were -- she was giving permission to  
9     interview Mr. Owen Diaz?

10              **A. No.**

11              Q.    And if you look at pages 732 through 737,  
12     those are handwritten notes on a Chartwell Staffing  
13     Solution template.

14              Have you ever seen any of those?

15              **A. No.**

16              Q.    And you didn't review those to get ready for  
17     your deposition today, did you?

18              MR. LAFAYETTE: Objection. Now you're going  
19     to the attorney-client privilege. I'm going to  
20     instruct her not to answer.

21              MS. SWAFFORD-HARRIS: It's also  
22     argumentative.

23              MR. ORGAN: And just so we're clear, to get  
24     ready for your testimony as the person most  
25     knowledgeable on the topic of the circumstances of any

LUDIVINA LEDESMA

June 6, 2019

1 who had engaged in the harassing conduct towards your  
2 employee, Owen Diaz, was someone from -- that was not  
3 a CitiStaff employee; is that right?

4 MR. LAFAYETTE: Can I have the question back  
5 again?

6 (Record read as follows:

7 "QUESTION: So Ms. De Leon informed you that  
8 the employee who had engaged in the harassing conduct  
9 towards your employee, Owen Diaz, was someone from --  
10 that was not a CitiStaff employee; is that right?" )

11 THE WITNESS: Correct.

12 MR. ORGAN: Q. And Ms. De Leon also informed  
13 you that Mr. Diaz had said that that was not the first  
14 time that his harasser had engaged in inappropriate  
15 behavior; right?

16 A. No.

17 Q. She didn't tell you that?

18 A. No. I was not aware of that.

19 Q. Well, you did know that at the time, though;  
20 right?

21 MR. LAFAYETTE: Objection; lacking in  
22 foundation, argumentative, assumes facts not in  
23 evidence. Aware of what? It's also unspecific with  
24 regard to conduct.

25 MR. ORGAN: Q. You were aware, at the time

LUDIVINA LEDESMA

June 6, 2019

1       that you had the phone conversation with Ms. De Leon,  
2       that Mr. Diaz had complained that it was not -- that  
3       the effigy was not the first time that his harasser  
4       had engaged in what he considered to be inappropriate  
5       behavior; right?

6           **A.     No.**

7           MR. ARANEDA: Objection; vague.

8           MR. LAFAYETTE: Objection; vague. She didn't  
9 know.

10          THE WITNESS: No, I didn't know.

11          MR. ORGAN: Q. You would agree that a  
12 CitiStaff employee who is working at a client such as  
13 Tesla, is entitled to come to work and not be harassed  
14 or degraded while they're doing their job; right?

15          MR. LAFAYETTE: This is cumulative. This is  
16 the sixth time you've asked this question, and it has  
17 now new terms in it, "degraded." Vague and ambiguous.

18          Can we move on? You really have covered  
19 this. You really have covered this. And can you deal  
20 with the objection where you're putting in these new  
21 terms about "degraded," things like that?

22          MS. SWAFFORD-HARRIS: Tesla is going to join  
23 in that objection.

24          MR. ORGAN: Q. Do you know the question?

25           **A.     Can you repeat it again?**

LUDIVINA LEDESMA

June 6, 2019

1           **A. It was confirmed by Monica.**

2           Q. Did Monica explain to you how she knew it was  
3 confirmed?

4           **A. No.**

5           Q. Did Monica De Leon tell you anything about  
6 her conversations with Owen Diaz?

7           **A. No.**

8           Q. Did Monica De Leon tell you that she had  
9 actually met with Owen Diaz about his complaint?

10          **A. No.**

11          Q. Did Monica De Leon tell you that Mr. Diaz was  
12 upset by what had happened to him?

13          **A. No.**

14          Q. Did Monica De Leon communicate to you that  
15 Mr. Diaz was upset by the racist drawing?

16           MR. LAFAYETTE: Objection as framed. The  
17 question is argumentative, by the drawing that was  
18 described as racist.

19           Is that all right with you?

20           MR. ORGAN: I'll change the question.

21          Q. Did Monica De Leon tell you or inform you  
22 that Owen Diaz was upset by the drawing, which is page  
23 5 of Exhibit 131?

24          **A. No.**

25          Q. Did CitiStaff take any additional steps,

LUDIVINA LEDESMA

June 6, 2019

1       other than getting information on what had happened to  
2       the harasser, to find out if Mr. Owen Diaz had  
3       concerns about any other racist conduct at the Tesla  
4       factory?

5           **A.     No.**

6           Q.     Now, there's a Vanessa, I believe, who worked  
7       at CitiStaff; is that right?

8           **A.     Yes.**

9           Q.     And what's her last name?

10          **A.     Her last name?**

11          Q.     Yes. Vanessa.

12          **A.     Garcia.**

13          Q.     Did you have any conversations with Vanessa  
14       Garcia about Mr. Diaz's complaint, in any way?

15          **A.     No.**

16          Q.     What is Ms. Garcia's title?

17          **A.     HR generalist.**

18          Q.     So Ms. Garcia reported to you; is that  
19       correct?

20          **A.     Yes.**

21          Q.     Is Ms. Garcia still with CitiStaff?

22          **A.     Yes.**

23          Q.     Where does she work? Down in Orange County?

24          **A.     Yes.**

25          Q.     Were you aware of anything that Tesla did to

LUDIVINA LEDESMA

June 6, 2019

1 State of California )  
2 County of Marin )

3

4 I, Bridget M. Mattos, hereby certify  
5 that the witness in the foregoing deposition was by me  
6 duly sworn to testify to the truth, the whole truth  
7 and nothing but the truth in the within entitled  
8 cause; that said deposition was taken at the time and  
9 place herein named; that the deposition is a true  
10 record of the witness's testimony as reported to the  
11 best of my ability by me, a duly certified shorthand  
12 reporter and disinterested person, and was thereafter  
13 transcribed under my direction into typewriting by  
14 computer; that the witness was given an opportunity to  
15 read, correct and sign the deposition.

16 I further certify that I am not  
17 interested in the outcome of said action nor connected  
18 with or related to any of the parties in said action  
19 nor to their respective counsel.

20 IN WITNESS WHEREOF, I have hereunder  
21 subscribed my hand on June 6, 2019.

22

---

23 BRIDGET M. MATTOS, CSR NO. 11410  
24  
25

# Exhibit

3

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

---oo---

DEMETRIC DI-AZ, OWEN DIAZ,  
and LAMAR PATTERSON,

Plaintiffs,

vs.

No. 3:17-cv-06748-WHO

TESLA, INC. Dba TESLA MOTORS,  
INC.; CITISTAFF SOLUTIONS,  
INC.; WEST VALLEY STAFFING  
GROUP; CHARTWELL STAFFING  
SERVICES, INC.; and DOES 1-50,  
inclusive,

Defendants.

//

DEPOSITION OF EDWARD ROMERO

November 30, 2018

Reported by:

Bridget M. Mattos, CSR No. 11410

EDWARD ROMERO  
November 30, 2018

**Page 5**

1                   BE IT REMEMBERED that, pursuant to  
2 Notice of Taking Deposition, and on November 30, 2018,  
3 commencing at the hour of 10:00 a.m., at CALIFORNIA  
4 CIVIL RIGHTS LAW GROUP, 332 San Anselmo Avenue, San  
5 Anselmo, California, before me, BRIDGET M. MATTOS, CSR  
6 No. 11410, there personally appeared

7

8                   EDWARD ROMERO,

9

10                  called as a witness by Plaintiff, who, having been  
11 duly sworn, was examined and testified as is  
12 hereinafter set forth.

13                   ---oOo---

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EDWARD ROMERO  
November 30, 2018

Page 25

1 MR. ORGAN: Q. As far as you know?

2 A. **As far as I know, everyone was subject to**  
3 **follow the rules on PPE.**

4 Q. And that was true regardless of whether they  
5 were a contractor or whether they were a regular Tesla  
6 employee; right?

7 A. **Yes.**

8 MS. ANTONUCCI: Objection; calls for  
9 speculation.

10 MR. ORGAN: Q. So in terms of, like, the  
11 safety requirements, as far as you understood it and  
12 as far as you were trained, it was your understanding  
13 that regular Tesla employees and contractors both had  
14 to follow the personal protection equipment program;  
15 correct?

16 A. **Yes.**

17 MS. ANTONUCCI: Objection; calls for  
18 speculation.

19 Can you give me one second? Just take a  
20 breath.

21 THE WITNESS: I will.

22 MS. ANTONUCCI: Okay. Thank you.

23 MR. ORGAN: Q. Tesla also required employees  
24 to wear personal protective equipment, or PPE, in the  
25 factory; is that true?

EDWARD ROMERO

November 30, 2018

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1       A. Could you restate that again?

2       Q. Yeah.

3                  You understood that Tesla required the  
4       employees, whether they be contractors or regular  
5       Tesla employees, to wear personal protective equipment  
6       in the factory?

7       A. Yes.

8       Q. And Tesla supplied that personal protective  
9       equipment to the employees; is that correct?

10      A. From what I understand, overall, yes. I  
11     can't speak for other departments. Maybe they had  
12     different guidelines because of the type of work that  
13     they did there, so I can't speak for all of Tesla. I  
14     only knew a portion of it.

15      Q. Sure. But in terms of the -- you were in  
16     maintenance and janitorial -- or recycling and  
17     janitorial. In that area, all employees had to wear  
18     PPE; is that correct?

19      A. Yes.

20      Q. And that was true whether they were an  
21     employee of Tesla or whether they were an -- or a  
22     contractor; correct?

23      A. Yes. Because even the contractors would be  
24     called to their attention if they were not wearing  
25     their PPE.

EDWARD ROMERO  
November 30, 2018

Page 60

1 scope of work. Okay? I did not supervise their  
2 employees; I did not direct their employees. Okay? I  
3 was to supervise the contractors.

4 Q. So you worked with the contracting agencies  
5 then as the --

6 A. Their representatives.

7 Q. And who was the nextSource representative?

8 A. Wayne Jackson.

9 Q. And who was City Staff?

10 A. Oh, I don't know who they were. It's my  
11 understanding that they worked together. I don't know  
12 what type of arrangement they had, but I think  
13 nextSource took the lead in bringing in people into  
14 the factory.

15 Q. So it was your understanding that nextSource  
16 took the lead in bringing in employees into the  
17 factory, even if they worked for a different  
18 contractor, like City Staff?

19 A. That was my understanding. It was my  
20 understanding.

21 Q. I understand.

22 A. I have no more knowledge of that.

23 Q. That's all I'm asking for is your  
24 understanding of stuff.

25 Okay. Then in terms of -- do you know what

EDWARD ROMERO  
November 30, 2018

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1 Q. Do you know who they worked for?

2 A. Again, I think it was through nextSource, but  
3 it might have been some City Staff and other agencies  
4 also.

5 Q. And the elevators, this was the way that  
6 products got from either the lower level to the upper  
7 level or the upper level to the lower level; is that  
8 right?

9 A. Yes. Moving production materials for the  
10 building of cars.

11 Q. These are, like, heavy-duty elevators, you  
12 said; right?

13 A. Yes, they're humongous, probably the size of  
14 your -- half of your office here.

15 Q. Okay. I haven't been to the Tesla factory,  
16 so tell me, pretty much, what was the role of the  
17 elevators? What were they supposed to do?

18 A. Okay. The elevators were there to move  
19 product, and actually the primary responsibility was  
20 to move material up and down for the production -- the  
21 construction of cars. Okay?

22 The group that I supervised, supervises the  
23 two large elevators. And we had forklift drivers,  
24 tugger drivers, who moved this material up and down  
25 the elevators all day long. We had drop zones near

EDWARD ROMERO

November 30, 2018

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1 had said there was some kind of relationship between  
2 Hilda and Aaron?

3 A. My job was to -- if anybody had any concerns  
4 or complaints, to escalate it to the point where I  
5 could escalate it. And so what I did is I reported it  
6 to Mr. Salazar, which was the manager in recycling,  
7 okay, and if I remember correctly, during that time I  
8 was just being introduced to the elevators, so it was  
9 kind of, like, they're still in charge, okay, and  
10 that's the way it was handled. It was escalated to  
11 the right people.

12 Q. So when you were a supervisor, your job,  
13 whenever you heard a complaint, was to escalate that  
14 complaint or those concerns to a level where someone  
15 could address it; is that right?

16 A. In other words, if it was -- as a supervisor,  
17 I could take it to a certain level, which primarily  
18 meant dealing with either Victor Quintero or HR or,  
19 you know, one of those individuals. Or the  
20 contractors' representative, the account manager, I  
21 would take it to that point, and then they would deal  
22 with it from there.

23 Q. Did you feel like any of these things you  
24 heard about from either Jesse or Hilda were concerns  
25 that needed to be raised to the HR level?

EDWARD ROMERO

November 30, 2018

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1 his hair, with a caption under it saying "boo."

2       **A.**   **Mm-hm.**

3       **Q.**    Right?

4       **A.**   **Yes.**

5       **Q.**    That's what he told you; right?

6       **A.**   **Yes.**

7       **Q.**    And it was clear to you, wasn't it, that that  
8 was offensive to Mr. Diaz?

9       **A.**   **Of course.**

10      **Q.**    In fact, down at the bottom, Mr. Diaz puts in  
11 his text to you, "A person should be able to come to  
12 work and not be harassed or degraded while they're  
13 trying to do their job"; right?

14      **A.**   **Yes.**

15      **Q.**    It was clear to you that Mr. Diaz was  
16 suggesting that he felt harassed and degraded by that  
17 poster; right?

18      **A.**   **That's why we took action.**

19      **Q.**    He then references down here, "This is not  
20 the first time Ramon Martinez has been" -- I think  
21 "talked about, about his behavior."

22      That was in reference to the prior incident  
23 where Mr. Diaz had complained about Ramon Martinez  
24 saying things or threatening him on the elevator;  
25 right?

EDWARD ROMERO

November 30, 2018

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1               MS. ANTONUCCI: Objection; calls for a legal  
2 conclusion, misstates prior testimony.

3               THE WITNESS: He did not talk to me about  
4 that, specifically.

5               MR. ORGAN: Q. Did you ask him about it?

6               A. I did not.

7               Q. Why not?

8               A. Because I was going to direct this  
9 information to the appropriate people to handle it.

10               Q. And the appropriate people to handle it were  
11 Wayne Jackson and Victor Quintero?

12               A. Correct.

13               Q. So once the information that was in this  
14 email or text message -- whatever it was -- was  
15 communicated by you to Wayne Jackson and Victor  
16 Quintero, you felt like your role was over; is that  
17 correct?

18               MS. ANTONUCCI: Objection; misstates  
19 testimony. Vague.

20               THE WITNESS: I didn't think that my  
21 responsibilities were over. I felt I had done what I  
22 was supposed to do, placing it where some action could  
23 be taken.

24               MR. ORGAN: Okay.

25               Q. If you go to the second page of Exhibit 37,

EDWARD ROMERO

November 30, 2018

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1 terms; right?

2       **A. That the witnesses denied hearing any racial**  
3 **slurs being made.**

4       Q. But the witnesses also said that Mr. Timbreza  
5 had a tendency to kid around excessively.

6       **A. Correct.**

7       Q. Right?

8           And you had no basis to suggest or think that  
9 Owen Diaz was lying about this, did you?

10      **A. No.**

11           MS. ANTONUCCI: Objection; vague.

12           MR. ORGAN: Q. In fact, a verbal warning was  
13 issued to Mr. Timbreza, wasn't it?

14      **A. It was for his kidding around excessively.**

15      Q. Did it mention anything about racially  
16 offensive remarks?

17      **A. I don't think that it did.**

18      Q. Did you see this verbal warning that --

19      **A. I don't remember.**

20      Q. Let me finish the question.

21      **A. Okay.**

22      Q. Did you see the verbal warning that was  
23 issued to Mr. Timbreza?

24      **A. I do not remember looking at it. I can't**  
25 **remember looking at it.**

EDWARD ROMERO

November 30, 2018

**Page 214**

1 State of California )

2 County of Marin )

3

4 I, Bridget M. Mattos, hereby certify  
5 that the witness in the foregoing deposition was by me  
6 duly sworn to testify to the truth, the whole truth  
7 and nothing but the truth in the within entitled  
8 cause; that said deposition was taken at the time and  
9 place herein named; that the deposition is a true  
10 record of the witness's testimony as reported to the  
11 best of my ability by me, a duly certified shorthand  
12 reporter and disinterested person, and was thereafter  
13 transcribed under my direction into typewriting by  
14 computer; that the witness was given an opportunity to  
15 read, correct and sign the deposition.

16 I further certify that I am not  
17 interested in the outcome of said action nor connected  
18 with or related to any of the parties in said action  
19 nor to their respective counsel.

20 IN WITNESS WHEREOF, I have hereunder  
21 subscribed my hand on November 30, 2018.

22

---

23 BRIDGET M. MATTOS, CSR NO. 11410

24

25

# Exhibit

4

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
- - - - -  
DEMETRIC DIAZ, OWEN DIAZ, and )  
LAMAR PATTERSON, )  
Plaintiffs, ) CASE NO.  
vs. ) 3:17-CV-06748-WHO  
TESLA, INC. dba TESLA MOTORS, )  
INC.; CITISTAFF SOLUTIONS, )  
INC.; WEST VALLEY STAFFING )  
GROUP; CHARTWELL STAFFING )  
SERVICES, INC.; and DOES 1-50, )  
inclusive, )  
Defendants. )  
- - - - -

DEPOSITION OF MICHAEL JOHN WHEELER

WEDNESDAY, JUNE 12, 2019

Reported by:

BY: MELINDA M. SELLERS, CSR# 10686, RMR, CRC, CRR, CCRR

MICHAEL JOHN WHEELER

June 12, 2019

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9           Deposition of MICHAEL JOHN WHEELER, taken on  
10      behalf of PLAINTIFFS, at 180 Grand Ave., Suite 1380,  
11      Oakland, California, commencing at 12:18 p.m.,  
12      WEDNESDAY, JUNE 12, 2019, before Melinda M. Sellers,  
13      Certified Shorthand Reporter No. 10686, pursuant to  
14      Notice.

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MICHAEL JOHN WHEELER

June 12, 2019

1           **A.**    **Mm-hmm.**

2           **Q.**    Is that right?

3           **A.**    **Yes.**

4           **Q.**    And I think we said that was in either the  
5   September/October 2015 time frame that you moved up  
6   to supervisor --

7           **A.**    **Yes.**

8           **Q.**    -- is that right?

9                 Okay. And when you moved up to supervisor,  
10   the supervisor position wasn't necessarily an  
11   employee or a direct employee of Tesla, right?

12          **A.**    **No.**

13          **Q.**    And tell me what the job duties were of the  
14   supervisor position?

15          **A.**    So I managed the other 22 employees that  
16   worked graveyard with me, making sure that they were  
17   on time, they were following the protocols, safety,  
18   lunch times were monitored, putting together plans  
19   and working with Tesla employees to make the  
20   recycling process better. And then, of course,  
21   disciplinary.

22          **Q.**    Okay. So you would do, like, performance  
appraisals or things like that?

24          **A.**    I would do all the way up to termination.

25          **Q.**    As the supervisor, did you have authority

MICHAEL JOHN WHEELER

June 12, 2019

1 to terminate --

2           **A. Yes.**

3           Q. -- people under you?

4           **A. Mm-hmm. There are a few, yes, employees**  
5 **that I did have to ask to leave.**

6           Q. Okay. And when you asked people to leave,  
7 did Tesla have input on that process?

8           **A. Josue and that circle, upper circle, yes,**  
**they could. For the most part anyone that I asked**  
**to leave was a pretty serious offense.**

11          Q. Okay. But in terms of terminating  
employees, you would always consult with the -- the  
managers from Tesla; is that right?

14          **A. No. I would talk to -- I'd send the emails**  
**out to the appropriate channels, but very rarely did**  
**they respond.**

17          Q. Okay.

18          A. A lot of those cases at Tesla are  
19 cut-and-dry. We have people that bring guns to  
20 Tesla. We have people that bring cocaine to Tesla.  
21 We have people fornicating at Tesla. So it's --  
22 it's usually an easy fix.

23          Q. Okay. In terms of the policies that you  
24 were enforcing as the supervisor in the recycling --  
25 is it okay if I call it recycling?

MICHAEL JOHN WHEELER

June 12, 2019

1           A.    He was either Chartwell or Flagship.

2           Q.    Okay. Tell me about this incident where  
3    Jesus called you the N-word.

4           A.    I was -- it was pretty cut-and-dry. I went  
5    to speak with him about what had happened, to let  
6    him know that it was inappropriate to take pictures  
7    of other associates, but it was also inappropriate  
8    to take pictures of associates while they're  
9    off-duty.

10                 He tried to justify his actions by saying,  
11    "Well, he was sleeping. He's not allowed to sleep."

12                 I reminded him that he was not in any  
13    position of authority and he needed to delete the  
14    picture.

15                 And then he turns around, says, you know --  
16    I'm sorry. Anyway, calls me the N-word and walks  
17    off.

18                 I report that to the Tesla supervisors and  
19    also to Ramon Martinez, and that was that. Nothing  
20    happened.

21                 Shortly after that, he was given his own  
22    position as a supervisor in a different section. So  
23    still working for recycling, but just a little  
24    further removed.

25                 Q.    Okay. So if I get this right, can you

MICHAEL JOHN WHEELER

June 12, 2019

1     **And for him to sit there and lie to me and do what**  
2     **he did, they just stopped talking to him after that.**

3           Q.     Okay. In terms of Ramon Martinez, did you  
4     ever hear him use the N-word towards anyone else?

5           A.     No. But as he's bilingual, whenever -- and  
6     I mean this in the most non-, I don't know,  
7     opinionated way. So if you are not a Spanish  
8     speaker or people aren't sure if you are, when you  
9     come around and they're talking, they'll switch to  
10    their native language so that you can't listen to  
11    their conversations. This happens in Tesla, outside  
12    of Tesla.

13          Q.     Did you ever heard the word "negra"? Ever  
14     heard that?

15          A.     Not that I was listening, but no.

16          Q.     "Miyate," ever hear that word from them?

17          A.     I hear that all the time, so I can't tell  
18     you from who I hear it from.

19          Q.     Okay. So after you -- let's go back to the  
20     conversation you had with Josue Torres about  
21     complaining about Jesus calling you the N-word.

22          A.     Mm-hmm.

23          Q.     Where did that conversation take place?

24          A.     I do not remember. I remember trying to  
25     trek -- track Ramon down because we're always in

MICHAEL JOHN WHEELER

June 12, 2019

1           A. Yes and no. So I had a little cart that I  
2 drove around, and so I wouldn't be -- I would be  
3 moving too fast to really drop into a conversation.

4           Q. I see. Okay.

5                 But it sounded like you did hear the N-word  
6 used at other times in the factory --

7           A. Yeah.

8           Q. -- is that correct?

9           A. During breaks or outside when they're  
10 smoking or in passing, coming into the factory.

11          Q. And do you remember who the people were who  
12 you heard using the N-word?

13          A. **Everybody. Blacks, whites, Mexican.**

14          Q. Okay. And you said that you didn't think  
15 it was used in an aggressive way?

16          A. **Not at all.**

17          Q. So when you were overhearing it, you were  
18 hearing it more like, "Hey, how's my N-word," or  
19 that kind of thing?

20          A. **Yeah.**

21          Q. And the N-word with an "A"?

22          A. **"A," correct.**

23          Q. Right.

24                 However, N-word with an "A" can still be  
25 offensive to an African-American, right?

MICHAEL JOHN WHEELER

June 12, 2019

1       that -- tell me what that might mean, if you know.

2           **A. I wouldn't say the operators were**  
3           **recycling.**

4           Q.    Okay.

5           **A. They literally stayed in the elevator all**  
6           **day, taking Tesla products and recycling products**  
7           **upstairs and downstairs --**

8           Q.    Okay.

9           **A. -- but never did they need to move anything**  
10          **other than off or onto the elevator. So they did**  
11          **not break down boxes or sort or anything of that**  
12          **caliber.**

13          Q.    Okay. Did you actually supervise Owen Diaz  
14          in any way?

15          **A. I was above Owen. I never needed to do**  
16          **more than ask him, "Hey, can you bring something**  
17          **down? Can you take this up?"**

18          Q. Okay. So you had an ability to at least  
19          direct Owen's work, but you didn't have  
20          responsibility for his -- for -- direct supervision  
21          of his work? Or tell me what your leadership was.

22          **A. So I was technically Owen's superior.**

23          Q. Okay.

24          **A. And if I needed him to do something, that**  
25          **would have been the chain of command.**

MICHAEL JOHN WHEELER

June 12, 2019

1           Q.     Okay. I'm just gonna -- I'm gonna show you  
2 what's been previously marked as --

3           **A.     The pictures --**

4           Q.     -- Exhibit 128.

5                 I don't know why I only have two copies. I  
6 apologize, Counsel. It's Exhibit 128.

7                 So Exhibit 128, for the record, is a  
8 four-page document Bates-stamped TESLA 20 to 24 --  
9 or 23, and it's got some pictures at the end of the  
10 email from Mr. Diaz to Ed Ramiro.

11               Did you ever see the email that was --  
12 that's on page 22, the third page?

13           **A.     I did not see the emails --**

14           Q.     Okay.

15           **A.     -- involving this incident. But I did see**  
16 **the bale.**

17           Q.     You saw the actual --

18           **A.     I saw the actual bale.**

19           Q.     So you saw the bale of cardboard that's in  
20 Exhibit 128 that has the Picaninny and the "Boo"  
21 underneath, correct?

22           **A.     Yes.**

23           Q.     And tell me, what were the circumstances in  
24 which you happened to see the actual picture, which  
25 is -- I guess a close-up of it is the fourth page of

MICHAEL JOHN WHEELER

June 12, 2019

1       Exhibit 128, which is also TESLA 23?

2           **A.**   So --

3           **Q.**   Why don't you turn to the last page of  
4       Exhibit 128.

5           **A.**   I remember this like it was yesterday.

6           **Q.**   Okay.

7           **A.**   But basically I was working in a different  
8       part of the factory. And I get a phone call from  
9       Owen, and he asks me if I could come over to the  
10      elevator.

11          Q.    Okay. Just so we're oriented, his email,  
12       Owen's email, is dated January 22 of 2016. Does  
13       that kind of coincide with when you recall Owen  
14       calling you up?

15          **A.**   As far as -- I mean, he called me to come  
16       look at this.

17          Q.    Okay.

18          **A.**   As we had spoken before. So I was his  
19       supervisor.

20          Q.    Okay.

21          **A.**   He wanted to make sure that another  
22       supervisor other than Ramon had seen the picture.

23          Q.    Okay.

24          **A.**   Or the drawing.

25          Q.    Did he know that it was Ramon Martinez who

MICHAEL JOHN WHEELER

June 12, 2019

1       **called Ramon over. And we were trying to figure**  
2       **out --**

3           Q.     Let's stick with -- let's -- I want to get  
4       to that.

5           **A.     Okay.**

6           Q.     But let's stick with, so when you first get  
7       there, you were laughing about it, but because  
8       that's your way of coping with negative things; is  
9       that correct?

10          **A.     Correct.**

11          Q.     And so you didn't think it was a laughing  
12       matter when you saw this picture, did you?

13          **A.     Not after -- because it was a quick**  
14       **chuckle, not a full -- not a lengthy laugh. But I**  
15       **did realize it was a serious situation, so I reeled**  
16       **it in pretty quickly.**

17          Q.     And Owen wasn't laughing at all, was he?

18          **A.     He was not. Didn't even have a smile on**  
19       **his face.**

20          Q.     Right. He considered this to be -- well,  
21       strike that.

22                 Did he tell you how he viewed this picture  
23       of the Picaninny and the "Boo" underneath?

24          **A.     He did.**

25                 **And, also, I believe Owen is a little older**

MICHAEL JOHN WHEELER

June 12, 2019

1       than me, so this would strike him more specifically  
2       than it would my generation of African-Americans.  
3       Where they still use, you know, "spook" and things  
4       of that, you know, nature.

5           Q. Did he tell you -- did Owen tell you that  
6       he thought the "Boo" was short for jigaboo?

7           A. **If he did mention it, I wasn't -- I was**  
8       **more concerned with who, not what at that point.**

9           Q. Okay. Okay. But the way you perceived it  
10      as an African-American male, was you still perceived  
11      this as some kind of racial drawing, right?

12          A. **I perceived it as spook, "Boo" being**  
13       **related to spook, not as jigaboo.**

14          Q. Okay. And it was still offensive to you as  
15       an African-American male, right?

16          A. **Correct.**

17          Q. Okay. So and certainly Owen Diaz expressed  
18       to you that he was offended by this drawing, right?

19          A. **Yes.**

20          Q. And then -- okay. What happens next?

21          A. So Ramon -- we call Ramon over. I want to  
22       say we called Ramon over to figure out what was  
23       going on. At this point -- because I don't think  
24       Ramon drew it --

25          Q. Okay.

MICHAEL JOHN WHEELER

June 12, 2019

1       **threatened to kill him?**

2           Q.    Yeah.

3           **A.    Is that the one?**

4           Q.    Yeah.

5           **A.    Okay.**

6           Q.    You were aware of that --

7           **A.    I was aware of that situation, yes.**

8           Q.    You were also aware that Owen had  
9 complained previously that Ramon Martinez had  
10 threatened him, correct?

11          **A.    I do not recall that.**

12          Q.    Okay. Now, in addition to you, Owen also  
13 had other supervisors; is that correct?

14          **A.    It would have been Ramon.**

15          Q.    Ramon Martinez?

16          **A.    And Israel, the swing shift.**

17          Q.    Okay.

18          **A.    Because I want to say Owen worked from**  
**19        6:00 to 6:00.**

20          Q.    Yeah.

21          **A.    So he fell on to two different shifts.**

22          Q.    Okay. So because Owen worked 6:00 to 6:00,  
23 he had multiple supervisors; is that correct?

24          **A.    Correct.**

25          Q.    And those supervisors included yourself; is

MICHAEL JOHN WHEELER

June 12, 2019

1 Q. That you painted --

2 A. -- that I painted for the students.

3 Q. Okay. So you told the students that it was  
4 a great place to work, but you really felt it was a  
5 prison?

6 A. I told them it's a great place to work for  
7 engineers.

8 Q. Okay.

9 A. I tell everybody that.

10 Q. Okay. And I -- I guess I'll circle back on  
11 that.

12 Do you remember anybody who had -- anybody  
13 specific who had the swastika tattoos that you were  
14 testifying about?

15 A. I don't know his name.

16 Q. Okay.

17 A. I remember being -- it was -- I think I  
18 spoke to one of my coworkers. I was, like, "Man, we  
19 have some skinheads here." Yeah. But I saw him in  
20 passing. He walked by, and I was looking at his --  
21 he has a full head of tattoos, not just -- not just  
22 the swastika, but a full head of tattoos. I was,  
23 like, how is that even allowed here.

24 Q. Tattoos?

25 A. No. Just -- well, not tattoos. Everyone

MICHAEL JOHN WHEELER

June 12, 2019

1       has tattoos, right? But just, like, taken aback  
2       that that was going unchecked.

3           Q.    The tattoos on the head?

4           **A.    The vulgarity of the tattoos on the head.**

5           Q.    Did you ever complain about that to  
6 anybody?

7           **A.    At this point, no, because I was well aware**  
8 **of the situation I was in.**

9           Q.    Did you complain about the tattoos to  
10 anybody else ever?

11          **A.    Not -- just conversation. Just**  
12 **conversation.**

13          Q.    Okay.

14          **A.    Not, like, "Oh, I can't believe this is**  
15 **happening," no.**

16          Q.    Do you remember who you had conversations  
17 about the head tattoos with, or any tattoos?

18          **A.    No.**

19          Q.    Okay. Was it someone in HR?

20          **A.    No, not at all.**

21          Q.    And then you also mentioned, as part of  
22 your description of Tesla as a prison, that they  
23 wore pants around the ankles.

24          **A.    Yes.**

25          Q.    Would that be a problem if someone was

MICHAEL JOHN WHEELER

June 12, 2019

1 STATE OF CALIFORNIA )  
2 ) ss  
3 COUNTY OF CALAVERAS )

4 I hereby certify that the witness in the  
5 foregoing deposition of MICHAEL JOHN WHEELER was by  
6 me duly sworn to testify to the truth, the whole  
7 truth, and nothing but the truth in the  
8 within-entitled cause; that said deposition was taken  
9 at the time and place herein named; that the  
10 deposition is a true record of the witness's  
11 testimony as reported by me, a duly certified  
12 shorthand reporter and a disinterested person, and  
13 was thereafter transcribed into typewriting by  
14 computer.

15 I further certify that I am not interested  
16 in the outcome of the said action, nor connected  
17 with, nor related to any of the parties in said  
18 action, nor to their respective counsel.

19 IN WITNESS WHEREOF, I have hereunto set my  
20 hand this 24th day of June, 2019.

21

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23

---

24 MELINDA M. SELLERS, CSR NO. 10686  
25 STATE OF CALIFORNIA

# Exhibit

5

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

---oo---

DEMETRIC DI-AZ, OWEN DIAZ, and  
LAMAR PATTERSON,

Plaintiffs,  
vs.  
No. 3:17-cv-06748-WHO

TESLA, INC. dba TESLA MOTORS,  
INC.; CITISTAFF SOLUTIONS,  
INC.; WEST VALLEY STAFFING  
GROUP; CHARTWELL STAFFING  
SERVICES, INC.; NEXTSOURCE,  
INC.; and DOES 1-50,  
inclusive,

Defendants.

---

DEPOSITION OF WAYNE JACKSON

Friday, May 17, 2019

Reported by: Patricia Rosinski, CSR #4555

Job No. 13571

WAYNE JACKSON  
May 17, 2019

1 BE IT REMEMBERED that, pursuant to Deposition Subpoena  
2 and Notice of Taking Deposition, and on Friday, May 17, 2019,  
3 commencing at the hour of 10:08 a.m., thereof, at California  
4 Civil Rights Group, 180 Grand Avenue, Suite 1380, Oakland,  
5 California, before me, PATRICIA ROSINSKI, CSR No. 4555, a  
6 Certified Shorthand Reporter in and for the State of  
7 California, there personally appeared

8

9 WAYNE JACKSON,

10

11 produced as a witness in the above-entitled action, who,  
12 being by me first duly sworn, was thereupon examined as a  
13 witness in said action.

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WAYNE JACKSON  
May 17, 2019

1       **or less.**

2           Q. Tell me how it worked in terms of, let's say  
3        someone raised a complaint of discrimination or  
4        harassment --

5           **A. Uh-hum.**

6           Q. -- what was your understanding of how such a  
7        complaint was to be handled?

8           MR. ARANEDA: It's vague.

9           MR. ORGAN: It is a little big vague. Let me  
10      try it again so it's a little clearer.

11          THE WITNESS: Uh-hum.

12          MR. ORGAN: Q. Let's assume that a contract  
13        employee, meaning someone who wasn't a regular Tesla  
14        employee but was a contract employee who nextSource was  
15        doing liaison with, what was your understanding of the  
16        procedure for -- if a contract employee for one of the  
17        companies that you were doing liaison for made a  
18        complaint of harassment or discrimination, what was the  
19        process that was supposed to be followed?

20          A. I alerted the agency, usually one of the first  
21        things I did, whatever supplier they were from. I would  
22        gather any information I could get, present that to the  
23        agency, and then they would kind of conduct their  
24        investigation from there.

25          Q. When such a complaint was raised, what was your

WAYNE JACKSON  
May 17, 2019

1 Q. And do you remember what the information was  
2 that you got that there was a problem relative to  
3 Owen Diaz?

4 A. **There was a disparaging picture found on some**  
5 **boxes.**

6 Q. Did you get a copy of the picture?

7 A. **I believe so. I believe it was e-mailed to me.**  
8 **Someone took a photo and e-mailed it to me.**

9 Q. It was a picture of a pickaninny.

10 Is that correct?

11 A. I don't --

12 Q. Is that your recollection?

13 MR. ARANEDA: Objection.

14 THE WITNESS: I don't know if it was a --

15 MR. ARANEDA: Vague.

16 THE WITNESS: Yeah. I don't know what you'd --  
17 you'd call it. It was offensive. It was a -- I think I  
18 used to call it a jigaboo or something, you know.

19 MR. ORGAN: Right.

20 THE WITNESS: I forgot what they called it.

21 MR. ORGAN: Q. It was an offensive depiction  
22 of an African-American.

23 Is that correct?

24 A. Yes, sir.

25 Q. And you found it offensive, right, when you saw

WAYNE JACKSON  
May 17, 2019

1       doing disciplinary or things of that nature, if I'm not  
2       mistaken.

3                   MR. ORGAN: Q. So your understanding of  
4       Ed Romero's tasks, though, relative to the elevator  
5       operators was that he could do scheduling, right --

6                   **A. Yes, sir.**

7                   Q. -- for them, and that Mr. Romero would at least  
8       direct their work; right?

9                   **A. Yes, sir.**

10                  Q. How would discipline towards contract employees  
11       take place, then, typically?

12                  **A. If there was a complaint, I would alert their**  
13       **agency of the complaint.**

14                  Q. And then it was up to the agency to do the  
15       disciplinary action.

16                  Is that right?

17                  **A. Yes, sir. Whether they were terminated, I**  
18       **couldn't terminate. They weren't my employees.**

19                  Q. I see.

20                  **A. Yeah.**

21                  Q. Could you recommend termination for people?

22                  **A. I mean, I can make a recommendation, but it**  
23       **wasn't -- the final decision wasn't mine.**

24                  Q. I see.

25                  Then in terms of Tesla's role in any kind of

WAYNE JACKSON  
May 17, 2019

1           Q.     And it references your -- it says you're  
2     actually on the phone doing the investigation of the  
3     Ramon/Owen incident.

4           A.     I was probably on the phone with Chartwell, I  
5     would assume, at that time.

6           Q.     Chartwell was the contractor that was employing  
7     Mr. Martinez.

8                         Is that right?

9           A.     Yes, it was either Chartwell or CitiStaff. I  
10     can have been talking to both of them.

11           Q.     Okay.

12           A.     I was just more or less alerting them as to  
13     what was going on.

14           Q.     Okay. Do you remember who you were talking to  
15     at Chartwell?

16           A.     Most likely it was Veronica and at CitiStaff --  
17     I can't think of the lady's name at Citistaff. She was  
18     very difficult to reach.

19           Q.     Okay. Let's see.

20                         (Whereupon, Plaintiffs' Exhibit 125 was marked  
21     for identification and is attached hereto.)

22           MR. ORGAN: Exhibit 125, for the record, is a  
23     one-page document Bates-stamped TESLA- -- I think  
24     it's -- 644. It's either 644 or 611. But, anyway,  
25     they're emails from October 17th and October 19th of

WAYNE JACKSON  
May 17, 2019

1       **instructed by Victor."**

2           Q.     Okay. And, then, in terms of any discussions  
3     that you had with Ed Romero, do you recall any  
4     discussions with Ed about this altercation between  
5     Mr. Diaz and Martinez?

6           A.     I'm sure I did, but I can't recall what the  
7     details were, to be honest.

8           Q.     What was the ultimate outcome of this  
9     investigation that you did into 126 -- into the  
10    information in Exhibit 126? Do you remember?

11          A.     I don't recall. I believe it was a -- a  
12    warning was issued. Yeah, I believe so.

13          Q.     Was a warning issued to Mr. Martinez, then?

14          A.     I don't recall. I think it was both in the  
15    sense if I -- I can't even remember because, like I  
16    said, Mr. Diaz had -- the timing is probably what's  
17    throwing me off a little bit.

18          But he had a few interactions with employees  
19    where he was pretty aggressive, I guess you could say,  
20    and we probably verbally counseled both of them to --  
21    to, you know, more or less, play nice with each other in  
22    the sandbox.

23          Q.     And do you think -- if you go back to  
24    Exhibit 125 where Mr. Ramon Martinez has that email on  
25    October 17th at 4:56 a.m., do you recall that

WAYNE JACKSON  
May 17, 2019

1       Mr. Martinez said that Mr. Diaz was aggressive?

2                  Because he doesn't mention that in the email.

3       He says unprofessional or --

4       A. Yeah, he didn't say -- yeah, I don't believe he  
5       said that. He just -- like I said, it was more of an  
6       attitude issue.

7       Q. In terms of Ramon Martinez's complaint about  
8       Mr. Diaz, it was more about Mr. Diaz's attitude, not  
9       about his aggressiveness; correct?

10      A. More of about his professionalism, yes, sir.

11      Q. Mr. Martinez thought that Mr. Diaz needed to be  
12     more professional with him.

13       Is that right?

14       MR. ARANEDA: It calls for speculation.

15       THE WITNESS: I wouldn't say with him, but more  
16     with everybody. He wasn't being professional with a few  
17     people in the -- not only other contractors, but Tesla  
18     employees.

19       MR. ORGAN: Q. Did Mr. Martinez tell you how  
20     Mr. Diaz was not being professional?

21       A. Like I said, it was more of an attitude, so I  
22     really couldn't -- I couldn't answer that for  
23     Mr. Martinez, to be honest. More or less, it was just  
24     that Owen was getting into it with a lot of individuals.

25       Q. Okay.

WAYNE JACKSON

May 17, 2019

1       **pretty difficult to reach, to be very honest.**

2           Q.     And then there's a Judy.

3                   Is Judy the same as Ludivina?

4           **A.     I don't know.**

5           Q.     Did you know a Judy Ledesma?

6           **A.     That does not sound familiar.**

7           Q.     Do you remember having any discussions with  
8       Monica De Leon about the jigaboo?

9           **A.     Yeah, I believe, like I said, I had alerted her**  
10       to it and made sure I provided her copies, if I'm not  
11       mistaken, of the photos.

12          Q.     Do you remember an actual conversation that you  
13       ended up having with her?

14          **A.     I really don't. Monica was really very**  
15       difficult to reach.

16          Q.     Okay.

17          This is 132.

18                   (Whereupon, Plaintiffs' Exhibit 132 was marked  
19                   for identification and is attached hereto.)

20          MR. ORGAN: Q. Exhibit 132, for the record, is  
21          a multiple-page document Bates-stamped 7 -- TESLA-730 to  
22          737. I guess it's an eight-page document. It includes  
23          some handwritten statements.

24                   (Document reviewed by the deponent.)

25          MR. ORGAN: Q. And I'm wondering, do you -- do

WAYNE JACKSON  
May 17, 2019

1                   Do you remember sending any kind of email about  
2 what your discussion was with Mr. Diaz?

3                 **A. No, sir, I don't recall that.**

4                 Q. Did it concern you that after the altercation  
5                 between Mr. Diaz and Mr. Martinez in the October time  
6                 period and then come January you've got this jigaboo  
7                 drawing, did that concern you?

8                 MR. ARANEDA: Objection.

9                 THE WITNESS: Yes, sir.

10                 MR. ARANEDA: Vague.

11                 MR. ORGAN: Q. And what did you do to act on  
12                 that concern that you had?

13                 **A. Like I said, I alerted the various agencies so**  
**they could look into it a little further.**

15                 Q. And, in fact, that's why you decided, in your  
16 opinion, that Mr. Martinez had been -- had crossed the  
17 line at least twice such that he needed to be  
18 terminated; right?

19                 MR. ARANEDA: Objection. It misstates his  
20 testimony.

21                 THE WITNESS: I wouldn't say he crossed the  
22 line twice. Once again, the first incident was more or  
23 less unsubstantiated. There were no witnesses or  
24 anybody. It was kind of my-word-against-yours type of  
25 deal.

WAYNE JACKSON  
May 17, 2019

1           **A.**       No.

2           **Q.**       -- at Tesla?

3           **A.**       I wouldn't have. I wouldn't have done anything  
4 with her, no.

5           **Q.**       What's your opinion of West Valley Staffing  
6 Group?

7           **A.**       They're a good staffing agency, just like any  
8 other staffing agency.

9           **Q.**       I'm going to ask you about a word that has  
10 been -- that's come up a few times in this case, and I  
11 don't want you to be offended, but I have to use the  
12 word. The word is nigger.

13          **A.**       Yes, sir.

14          **Q.**       Did you ever hear anyone use that word at  
15 Tesla?

16          **A.**       Yes, sir.

17          **Q.**       In what circumstances did you hear that word  
18 being said?

19          **A.**       There had been times where I'd actually  
20 walked -- been walking through the facility, and there  
21 was -- one time in particular, there was two Asian or  
22 Filipino gentlemen. And one was, like, "What's up, my  
23 nigga," to the other one. That type of thing.

24          It still was offensive, but, you know, it  
25 wasn't my employee, so I didn't engage in it.

WAYNE JACKSON  
May 17, 2019

1           that?

2           Objection. Vague.

3           THE WITNESS: If you were to ask -- I don't  
4       know if I could answer, but if you were to ask me,  
5       people use it in different contexts.

6           MR. HORTON: So you're referring to "nigga"?

7           THE WITNESS: Yes, they use it in different  
8       context.

9           MR. ORGAN: Q. So what you heard was "What's  
10      up, my nigga"?

11          A. Yes, sir.

12          Q. N-I-G-G-A?

13          A. Yes, sir.

14          Q. Okay.

15          A. And I will hear that often, to be honest.

16          Q. Oh. So you heard the A version of the N  
17       word -- just so we don't have to use it again --

18          A. Uh-hum.

19          Q. -- the A version -- you testified about  
20       nigga --

21          A. Yes, sir.

22          Q. -- so let's call that the A version --

23          A. Yes.

24          Q. -- of the N word.

25           Is that okay with you?

WAYNE JACKSON  
May 17, 2019

1

REPORTER'S CERTIFICATE

2

STATE OF CALIFORNIA )  
                          ) ss.  
3 COUNTY OF MARIN     )

4

I, PATRICIA ROSINSKI, hereby certify:

5

That I am a Certified Shorthand Reporter in the  
6 State of California.

7

That prior to being examined, WAYNE JACKSON,  
8 the witness named in the foregoing deposition, was by me  
9 duly sworn to testify the truth, the whole truth, and  
10 nothing but the truth;

11

That said deposition was taken pursuant to  
12 Notice of Deposition and agreement between the parties  
13 at the time and place therein set forth and was taken  
14 down by me in stenotype and thereafter transcribed by me  
15 by computer and that the deposition is a true record of  
16 the testimony given by the witness.

17

I further certify that I am neither counsel for  
18 either, nor related in any way to any party to said  
19 action, nor otherwise interested in the result or  
20 outcome thereof.

21

Pursuant to Federal Rules of Civil Procedure,  
22 Rule 30(e), review of the transcript was not requested  
23 before the completion of the deposition.

24

PATRICIA ROSINSKI, CSR No. 4555

25

May 28, 2019

# Exhibit

6

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

---oo---

DEMETRIC DI-AZ, OWEN DIAZ,  
and LAMAR PATTERSON,

Plaintiffs,

vs.

No. 3:17-cv-06748-WHO

TESLA, INC., dba TESLA  
MOTORS, INC.; CITISTAFF  
SOLUTIONS, INC.; WEST VALLEY  
STAFFING GROUP; CHARTWELL  
STAFFING SERVICES, INC.;  
and DOES 1-50, inclusive,

Defendants.

//

---

DEPOSITION OF VICTOR QUINTERO

June 7, 2018

Reported by:

Bridget M. Mattos, CSR No. 11410

VICTOR QUINTERO

June 7, 2018

1 talking about is -- the new-employee training is the  
2 training that every employee is supposed to take that  
3 goes into the Tesla factory. It doesn't matter  
4 whether they're a contractor or not; right?

5 **A. Yes.**

6 Q. Okay. Now, with respect to any kind of  
7 safety equipment for your contractors, let's say if  
8 they needed safety goggles, could they get safety  
9 goggles from the vending machines that Tesla had?

10 **A. The supervisors and the managers had access**  
11 **to the vending machines.**

12 Q. And so if there was a -- let's say there was  
13 a -- well, the elevator operators, they're working in  
14 the area that's surrounded by the line; right?

15 **A. Yes.**

16 Q. And so they needed to wear safety goggles  
17 whenever they might leave the elevator area to go,  
18 let's say, to the bathroom; right?

19 **A. Okay.**

20 Q. The equipment, like the safety equipment like  
21 the goggles, those would be provided by Tesla; right?

22 MS. ANTONUCCI: Objection; lacks foundation.

23 THE WITNESS: The supervisors had access to  
24 the vending machines, so they could get them and hand  
25 them out to the employees as needed.

VICTOR QUINTERO

June 7, 2018

1 Q. Have you ever heard of a pickaninny?

2 A. **Pickaninny?**

3 Q. Pickaninny.

4 A. **No.**

5 Q. A pickaninny is an offensive image that was  
6 used at the turn of the last century to depict  
7 African-Americans in offensive ways.

8 Have you ever of that?

9 A. **No, not that.**

10 Q. Okay.

11 A. **I'm not that old.**

12 Q. No, I didn't think you were.

13 How old are you?

14 A. **59.**

15 Q. And what was done as a result of your  
16 receiving this picture, which is the second page of  
17 Exhibit 37?

18 A. Yeah, so Wayne and I talked about it, and  
19 Wayne stated that he was going to -- he either had or  
20 was going to suspend Ramon, and that -- so we talked  
21 about whether Ramon should be terminated or not. And  
22 so the decision was made to give him a permanent  
23 written warning to make sure it didn't happen again.  
24 And I remember the decision was based on the fact that  
25 Ramon had never exhibited this type of behavior

VICTOR QUINTERO

June 7, 2018

1       before, as far as like anything that was offensive to  
2       anybody, doing anything that's offensive to anybody.  
3       And, yeah, so that was the decision that was made at  
4       the time. Basically, it was Wayne's decision, and I  
5       agreed.

6           Q.     Okay. So the two of you talked about it --

7           A.     **Yes.**

8           Q.     -- and decided on a course of action;  
9       correct?

10          A.     **Yes. But mainly, it was Wayne Jackson who**  
11       **made the decision. It's his employee, so...**

12          Q.     Did Wayne Jackson --

13          A.     **I can -- my perspective is I can only**  
14       **recommend certain things, you know.**

15          Q.     What did you recommend should be done?

16          A.     **That I agreed with his recommendation to**  
17       **suspend Ramon and give him a permanent written**  
18       **warning, which basically meant that if it happened**  
19       **again, he's terminated.**

20          Q.     Is Ramon Martinez still working at the Tesla  
21       plant?

22          A.     **Yes.**

23          Q.     Where does he work now?

24          A.     **Same thing, recycling.**

25          Q.     But now he's got -- he's a supervisor now;

VICTOR QUINTERO

June 7, 2018

1       right?

2           **A.     Either he was at the time, but for sure he is**  
3       **now.**

4           Q.     Is Ramon Martinez a regular Tesla employee  
5     now?

6           **A.     No, he's a nextSource employee. Supervisor.**

7           Q.     Okay.

8           **A.     And since then, he has never demonstrated any**  
9       **other offensive behavior to anybody.**

10          Q.     Have you checked with the employees around to  
11     find out if that's true?

12          **A.     No. I don't talk to everybody myself, in**  
13       **person.**

14          Q.     So how do you know he hadn't done anything  
15     offensive to anyone else?

16          **A.     That has come to my attention.**

17          Q.     Who told you that?

18          **A.     That is what I know today.**

19          Q.     How do you know that?

20          **A.     Because since this happened, I have not**  
21     **received any feedback on Ramon, as far as anybody**  
22     **being offended by discrimination or harassment or**  
23     **anything like that.**

24          Q.     Have you heard about the allegations that  
25     there are numerous Tesla black employees who have been

VICTOR QUINTERO

June 7, 2018

1 State of California )

2 County of Marin )

3

4                         I, Bridget M. Mattos, hereby certify  
5 that the witness in the foregoing deposition was by me  
6 duly sworn to testify to the truth, the whole truth  
7 and nothing but the truth in the within entitled  
8 cause; that said deposition was taken at the time and  
9 place herein named; that the deposition is a true  
10 record of the witness's testimony as reported to the  
11 best of my ability by me, a duly certified shorthand  
12 reporter and disinterested person, and was thereafter  
13 transcribed under my direction into typewriting by  
14 computer; that the witness was given an opportunity to  
15 read, correct and sign the deposition.

16                         I further certify that I am not  
17 interested in the outcome of said action nor connected  
18 with or related to any of the parties in said action  
19 nor to their respective counsel.

20                         IN WITNESS WHEREOF, I have hereunder  
21 subscribed my hand on June 7, 2018.

22

23                         \_\_\_\_\_  
24                         BRIDGET M. MATTOS, CSR NO. 11410  
25

# Exhibit

7

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

---oo---

DEMETRIC DI-AZ, OWEN DIAZ, and  
LAMAR PATTERSON,

Plaintiffs,  
vs.  
No. 3:17-cv-06748-WHO

TESLA, INC. Dba TESLA MOTORS,  
INC.; CITISTAFF SOLUTIONS,  
INC.; WEST VALLEY STAFFING  
GROUP; CHARTWELL STAFFING  
SERVICES, INC.; NEXTSOURCE,  
INC.; and DOES 1-50,  
inclusive,

Defendants.

/

DEPOSITION OF KEVIN McGINN

June 17, 2019

Reported by:

Bridget M. Mattos, CSR No. 11410

KEVIN McGINN  
June 17, 2019

1                   BE IT REMEMBERED that, pursuant to  
2 Notice of Taking Deposition, and on June 17, 2019,  
3 commencing at the hour of 10:12 a.m., at California  
4 Civil Rights Group, 180 Grand Avenue, Oakland,  
5 California, before me, BRIDGET M. MATTOS, CSR No.  
6 11410, there personally appeared

7

8                   KEVIN McGINN,

9

10          called as a witness by Plaintiff, who, having been  
11 duly sworn, was examined and testified as is  
12 hereinafter set forth.

13                   ---oo---

14

15

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17

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25

KEVIN McGINN  
June 17, 2019

1       one category of a managed service provider.

2                  The second category would be the selection of  
3       suppliers. So supplier selection would be a service  
4       that nextSource provides under its agreement.

5                  Q. And what does that mean, selection of  
6       suppliers? What does that involve?

7                  A. So a client such as Tesla may have needs in a  
8       certain geography or a certain, say, skill set.  
9       NextSource associates provide only a part of those  
10      needs; right? So nextSource would select suppliers  
11      who would provide additional supplier-employed workers  
12      at the Tesla site.

13                 Q. So in other words, nextSource would  
14       coordinate with other staffing agencies to try and  
15       accommodate Tesla's demand for associates at the  
16       Fremont factory?

17                 MR. GELLER: Misstates his testimony.

18                 Go ahead.

19                 THE WITNESS: NextSource would select  
20       suppliers who would provide resources into the Tesla  
21       factory at the direction of -- day-to-day direction of  
22       Tesla. However, those workers were employed; in other  
23       words, they were recruited, onboarded and paid, and,  
24       if needed, you know, terminated by the supplier  
25       employer.

KEVIN McGINN  
June 17, 2019

1           Q. And then under managed service providers, in  
2 terms of the functions that nextSource provided, those  
3 sort of fall into two categories.

4           You would provide a platform, a technology  
5 platform for associates to essentially submit  
6 timesheets; is that correct?

7           MR. GELLER: Misstates his testimony.

8           THE WITNESS: The platform would be for the  
9 supplier-employed workers to submit -- enter and  
10 submit their timesheets, which would then be approved  
11 by the -- well, to be approved by the client.

12          MR. ORGAN: Okay.

13          Q. So for example, nextSource chose CitiStaff  
14 Solutions, Inc., as a provider; is that correct?

15          A. Yes.

16          Q. And then nextSource would establish the  
17 technology platform for CitiStaff associates to, like,  
18 submit their timesheets and things like that; is that  
19 correct?

20          A. Yes.

21          Q. In addition to that, did nextSource provide  
22 any additional services for CitiStaff employees, other  
23 than the timekeeping function?

24          A. No.

25          Q. And then in addition to these sort of -- I'll

KEVIN McGINN  
June 17, 2019

1 State of California )

2 County of Marin )

3

4                         I, Bridget M. Mattos, hereby certify  
5 that the witness in the foregoing deposition was by me  
6 duly sworn to testify to the truth, the whole truth  
7 and nothing but the truth in the within entitled  
8 cause; that said deposition was taken at the time and  
9 place herein named; that the deposition is a true  
10 record of the witness's testimony as reported to the  
11 best of my ability by me, a duly certified shorthand  
12 reporter and disinterested person, and was thereafter  
13 transcribed under my direction into typewriting by  
14 computer; that the witness was given an opportunity to  
15 read, correct and sign the deposition.

16                         I further certify that I am not  
17 interested in the outcome of said action nor connected  
18 with or related to any of the parties in said action  
19 nor to their respective counsel.

20                         IN WITNESS WHEREOF, I have hereunder  
21 subscribed my hand on June 17, 2019.

22

---

23                         BRIDGET M. MATTOS, CSR NO. 11410

24

25

# Exhibit

8

**From:** Lamar Patterson <[lamarp28@gmail.com](mailto:lamarp28@gmail.com)>  
**Date:** February 26, 2016 at 6:39:56 PM PST  
**To:** Owen Diaz <[Odiazjr68@gmail.com](mailto:Odiazjr68@gmail.com)>

On February 26

I can't remember the exact time, myself Owen and Robert were in the elevator going up. Owen and I were having a conversation when Robert rudely interrupted. Owen stop the conversation and turn to Robert and stated, Robert no disrespect but if this conversation doesn't have anything to do with our job, I prefer not to discuss it with you. Owen turned and started resuming talking me, but Robert said, what's wrong with you why don't want you to talk let's discuss it. Owen told Robert he preferred to keep all conversations with him job related and if it didn't have anything to do with the job he did not want to talk about it. Robert got mad rode out of the elevator and told Owen to pick up this rack and take it downstairs that's job related, Owen explain to Robert we don't take the racks downstairs until later. Robert then threaten Owen by stating I'll just email Mr. Romero and tell him you're not doing your job. At no time did Owen get upset he kept calm. I don't know what going on but to me it seems like Robert was the only one hostile in this encounter.

# Exhibit

9

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Atorneys for Defendant  
**CITISTAFF SOLUTIONS, INC.**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

DEMETRIC DI-AZ, OWEN DIAZ and  
LAMAR PATTERSON, an individual,

Case No. 3:17-cv-06748-WHO

**Plaintiffs.**

VS.

| TESLA, INC. DBA TESLA MOTORS,  
| INC.; CITISTAFF SOLUTIONS, INC.;  
| WEST VALLEY STAFFING GROUP;  
| CHARTWELL STAFFING SERVICES,  
| INC. and DOES 1-10, inclusive .

**DEFENDANT CITISTAFF  
SOLUTIONS, INC.'S RESPONSE TO  
PLAINTIFF OWEN DIAZ'S  
INTERROGATORIES – SET ONE**

### Defendants.

PROPOUNDING PARTY: Plaintiff, OWEN DIAZ

RESPONDING PARTY: Defendant, CITISTAFF SOLUTIONS, INC.

SET NO.: One

1  
2       Defendant CitiStaff Solutions, Inc.'s ("Defendant") hereby responds to Plaintiff  
3 Owen Diaz's ("Plaintiff") Interrogatories, Set One, pursuant to Federal Rules of Civil  
4 Procedure, Rule 33, as follows:

5       **PRELIMINARY STATEMENT AND GENERAL OBJECTIONS**

6       1.      Defendant has not completed its investigation of the facts relating to this  
7 case, has not fully completed its discovery in this action, and has not completed its  
8 preparation for trial. Defendant's responses herein are based upon and reflect the  
9 current state of its knowledge, and are made without prejudice to Defendant's right to  
10 produce and utilize any subsequently discovered evidence or interpretations thereof.

11       2.      All the responses contained herein are based only upon such information  
12 and documents which are presently available to and specifically known to Defendant  
13 and disclose only those contentions which presently occur to Defendant. It is  
14 anticipated that further discovery, independent investigation, legal research and  
15 analysis will supply additional facts, and meaning to the known facts, as well as  
16 establish entirely new factual conclusions and legal contentions, all of which may lead  
17 to substantial additions, changes and variations to the contentions set forth herein.

18       3.      The following responses are given without prejudice to Defendant's right  
19 to produce evidence of any subsequently discovered fact or facts revealed by further  
20 investigation. Defendant accordingly reserved the right to change any and all answers  
21 herein as additional facts are ascertained, analyses are made, legal research is  
22 completed and contentions are made. The answers contained herein are made in a  
23 good faith effort to supply as much factual information as is presently known but in no  
24 way may be used to the prejudice of this responding party in relation to further  
25 discovery, research or analysis.

1       4. To the extent that these Interrogatories seek information privileged  
 2 against disclosure by the attorney-client privilege and/or protected by the attorney  
 3 work-product doctrine, Defendant objects to them.

4       5. No incidental or implied admissions are intended by these responses.  
 5 The fact that Defendant responds to or objects to any interrogatory should not be taken  
 6 as an admission that Defendant accepts or admits the existence of any facts assumed  
 7 by such interrogatory, or that such response or objection constitutes admissible  
 8 evidence as to any such assumed facts. The fact that Defendant responds to part of or  
 9 all of any interrogatory is not intended to be, and shall not be construed as, a waiver  
 10 by Defendant of any part of any objection to any interrogatory.

11      6. Each of the foregoing general objections is hereby incorporated by  
 12 reference into each and every one of the responses contained herein as though fully set  
 13 forth therein, regardless of whether any or all of the foregoing general objections are  
 14 repeated in response to any request.

15

## **RESPONSE TO INTERROGATORIES – SET ONE**

16      **INTERROGATORY NO. 1:**

17      Describe in comprehensive detail each position PLAINTIFF has held with  
 18 YOU, including the dates PLAINTIFF held such jobs. (In responding to this  
 19 interrogatory, the term describe includes, but is not limited to, the job title, functions,  
 20 hours and responsibilities for each job held by PLAINTIFF.)

21      **RESPONSE TO INTERROGATORY NO. 1:**

22      Defendant objects to this interrogatory on the grounds that it is overbroad,  
 23 ambiguous, vague, uncertain, and unintelligible with regard to the definition of the  
 24 term “describe” and the phrase “[d]escribe in comprehensive detail each position  
 25 PLAINTIFF has held with YOU.” Subject to and without waiving its objections and  
 26 to the extent it is understood, and limiting its response to information that reasonably  
 27

1 pertains to the claims in this case, Defendant responds: Elevator Operator; Elevator  
2 Lead. Plaintiff was temporarily assigned to Tesla, Inc. dba Tesla Motors, Inc. from  
3 approximately August 16, 2015 to March 20, 2016.

4

5 **INTERROGATORY NO. 2:**

6 Identify the business relationship between YOU and Tesla, Inc.

7 **RESPONSE TO INTERROGATORY NO. 2:**

8 Defendant objects to this interrogatory on the grounds that it is overbroad,  
9 ambiguous, vague and uncertain with regard to the phrase "Identify the business  
10 relationship between YOU and Tesla, Inc." Defendant further objects to this  
11 interrogatory on the grounds that it seeks information not relevant to any party's  
12 claims or defenses nor proportional to the needs of this case. Defendant further  
13 objects to this interrogatory to the extent that it seeks confidential and proprietary  
14 business information.

15 Subject to and without waiving its objections and to the extent it is understood  
16 and limiting its response to information that reasonably pertains to the claims in this  
17 case, Defendant responds: It is Defendant's understanding that Tesla, Inc. dba Tesla  
18 Motors, Inc. contracts with NextSource to staff temporary employees at its facilities.  
19 Defendant contracts with NextSource to secure temporary employees to work at the  
20 facilities of third party employers, including Tesla. Discovery is ongoing and  
21 Defendant reserves the right to supplement its response.

22

23 **INTERROGATORY NO. 3:**

24 Identify the business relationship between YOU and NextSource.

25 **RESPONSE TO INTERROGATORY NO. 3:**

26 Defendant objects to this interrogatory on the grounds that it is overbroad,  
27 ambiguous, vague and uncertain with regard to the phrase "Identify the business

1 relationship between YOU and NextSource.” Defendant further objects to this  
 2 interrogatory on the grounds that it seeks information not relevant to any party’s  
 3 claims or defenses nor proportional to the needs of this case. Defendant further  
 4 objects to this interrogatory to the extent that it seeks confidential and proprietary  
 5 business information.

6 Subject to and without waiving its objections and to the extent it is understood,  
 7 and limiting its response to information that reasonably pertains to the claims in this  
 8 case, Defendant responds: Defendant contracts with NextSource to secure temporary  
 9 employees to work at the facilities of third party employers, including Tesla.  
 10 Discovery is ongoing and Defendant reserves the right to supplement its response.

11

**12 INTERROGATORY NO. 4:**

13 Please describe all formal complaints made by Citistaff Solutions, Inc.  
 14 employees working at the TESLA FACTORY in the last ten years RELATED TO  
 15 harassment based on race or color. (In responding to this interrogatory, the term  
 16 formal complaint includes, but it is not limited to, complaints with the EEOC,  
 17 DFEH, or civil actions for harassment based on race or color. Please list the  
 18 name, address, phone number and job title of the complainant, the date of the  
 19 complaint, name of the person listed as the harasser and description of the  
 20 complaint.)

21 **RESPONSE TO INTERROGATORY NO. 4:**

22 Defendant objects to this interrogatory on the grounds that it is overbroad,  
 23 ambiguous, vague and uncertain with regard to the phrase “all formal complaints  
 24 made by Citistaff Solutions, Inc. employees working at the TESLA FACTORY  
 25 in the last ten years RELATED TO harassment based on race or color. (In  
 26 responding to this interrogatory, the term formal complaint includes, but it is not  
 27 limited to, complaints with the EEOC, DFEH, or civil actions for harassment

1 based on race or color. Please list the name, address, phone number and job title  
2 of the complainant, the date of the complaint, name of the person listed as the  
3 harasser and description of the complaint.)” Defendant further objects to this  
4 interrogatory to the extent that it seeks information not relevant to any party’s claims  
5 or defenses nor proportional to the needs of this case. Defendant further objects to  
6 this interrogatory to the extent that it seeks documents and information pertaining to  
7 employees or former employees of Defendant and thereby seeks to invade privacy  
8 rights established by the California Constitution. Defendant further objects to this  
9 interrogatory on the grounds it seeks information protected by the attorney-client  
10 privilege and/or by the attorney work product doctrine. Defendant further objects to  
11 this request on the grounds that it is burdensome and harassing in that it is overbroad  
12 as to time and not limited to Plaintiff or the specific department(s) Plaintiff  
13 temporarily worked in and it seeks information that is equally available to Plaintiff  
14 through public court records. This request impermissibly seeks “me too” evidence  
15 that is not relevant to the claims and defenses in this case.

16

17 **INTERROGATORY NO. 5:**

18 Please describe in comprehensive detail all steps taken to prevent future race  
19 harassment or discrimination as a result of PLAINTIFF's complaints. (In  
20 responding to this interrogatory, the term describe includes but is not limited to  
21 dates and actions that were taken in response to each complaint.)

22 **RESPONSE TO INTERROGATORY NO. 5:**

23 Defendant objects to this interrogatory on the grounds that it is overbroad,  
24 ambiguous, vague and uncertain with regard to the phrase “all steps taken to prevent  
25 future race harassment or discrimination as a result of PLAINTIFF's complaints. (In  
26 responding to this interrogatory, the term describe includes but is not limited to dates  
27 and actions that were taken in response to each complaint.)” Defendant further

1 objects to this interrogatory to the extent that it seeks information not relevant to any  
 2 party's claims or defenses nor proportional to the needs of this case. Defendant  
 3 further objects to this interrogatory on the grounds it seeks information protected by  
 4 the attorney-client privilege and/or by the attorney work product doctrine. Defendant  
 5 further objects to this request on the grounds that it is overbroad and vague and  
 6 ambiguous as to Plaintiff's alleged "complaints," which are not defined here.

7 Subject to and without waiving its objections and to the extent it is understood,  
 8 and limiting its response to information that reasonably pertains to the claims in this  
 9 case, Defendant responds: Defendant was made aware by third party NextSource of a  
 10 compliant made by Plaintiff Owen Diaz on or around January 22, 2016 against Ramon  
 11 Martinez regarding alleged harassment. This is the only complaint of alleged  
 12 harassment by Plaintiff Owen Diaz of which Defendant is aware. Defendant, through  
 13 NextSource and Chartwell, who upon information and belief, employed Mr. Martinez,  
 14 conducted and investigation. Defendant relied upon NextSource and Chartwell to  
 15 reprimand their employee, Mr. Martinez. Discovery is ongoing and Defendant  
 16 reserves the right to supplement its response.

17

18 **INTERROGATORY NO. 6:**

19 Please describe in comprehensive detail how Citistaff Solutions, Inc. educates  
 20 its employees to ensure familiarity with its policies and practices regarding race  
 21 harassment or discrimination. (In responding to this interrogatory, the term employee  
 22 includes, but is not limited to, managers.)

23 **RESPONSE TO INTERROGATORY NO. 6:**

24 Defendant objects to this interrogatory on the grounds that it is overbroad,  
 25 ambiguous, vague and uncertain with regard to the phrase "describe in  
 26 comprehensive detail how Citistaff Solutions, Inc. educates its employees to ensure  
 27 familiarity with its policies and practices regarding race harassment or discrimination.

1 (In responding to this interrogatory, the term employee includes, but is not limited to,  
2 managers.)” Defendant further objects to this interrogatory to the extent that it seeks  
3 information not relevant to any party’s claims or defenses nor proportional to the  
4 needs of this case. Defendant further objects to this interrogatory on the grounds it  
5 seeks information protected by the attorney-client privilege and/or by the attorney  
6 work product doctrine. Defendant further objects to this request on the grounds that  
7 it is burdensome and harassing in that it is overbroad and vague and ambiguous as to  
8 time and not limited in any manner in geographical scope.

9

10 **INTERROGATORY NO. 7:**

11 Describe every fringe benefit available to PLAINTIFF as part of his  
12 employment with Citistaff Solutions, Inc. (In responding to this interrogatory, the  
13 term describe includes, but is not limited to, the nature, approximate annual dollar  
14 value to PLAINTIFF, and minimum number of work hours to qualify for each  
15 fringe benefit).

16 **RESPONSE TO INTERROGATORY NO. 7:**

17 Defendant objects to this interrogatory on the grounds that it is overbroad,  
18 ambiguous, vague and uncertain with regard to the phrase “[d]escribe every fringe  
19 benefit available to PLAINTIFF as part of his employment with Citistaff Solutions,  
20 Inc. (In responding to this interrogatory, the term describe includes, but is not limited  
21 to, the nature, approximate annual dollar value to PLAINTIFF, and minimum number  
22 of work hours to qualify for each fringe benefit).” Defendant further objects to this  
23 interrogatory on the grounds that the definition of the term “describe” is overbroad,  
24 burdensome and harassing. Defendant is not responsible for calculating the  
25 approximately annual dollar value to plaintiff of benefits he was entitled to from  
26 Defendant, if any.

1       Subject to and without waiving its objections and to the extent it is understood,  
2 and limiting its response to information that reasonably pertains to the claims in this  
3 case, Defendant responds: Plaintiff was not entitled to “fringe benefits” from  
4 Defendant during his period of employment.

5  
6 Dated: June 4, 2018           CONSTANGY, BROOKS, SMITH & PROPHETE, LLP

7  
8                                    /s/ Barbara Antonucci  
9                                    Barbara I. Antonucci  
10                                  Aaron M. Rutschman  
11                                  Attorney for Defendant  
12                                  CITISTAFF SOLUTIONS, INC.

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## VERIFICATION

I, Ludivina Ledesma, declare:

I am authorized to make this Verification on behalf of CitiStaff Solutions, Inc. The document entitled **DEFENDANT CITISTAFF SOLUTIONS, INC.'S RESPONSE TO PLAINTIFF OWEN DIAZ'S INTERROGATORIES – SET ONE** is the product of information gathered by others, and on that basis I am informed and believe, and on the basis of such information and belief, declare that the facts stated therein are true.

Executed on June 4, 2018. I declare under penalty of perjury of the laws of the State of California and the United States that the foregoing is true and correct.

*Ludvina Leedesma*  
LUDVINA LEDESMA

## PROOF OF SERVICE

*U.S. District Court*  
*California Northern District (San Francisco)*  
**CIVIL DOCKET FOR CASE #: 3:17-cv-06748-WHO**

I am over 18 years of age and not a party to the within entitled action. I am employed at the law firm of CONSTANGY, BROOKS, SMITH & PROPHETE LLP, and my business address is 2029 Century Park East, Suite 1100, Los Angeles, California 90067. On June 4, 2018, I served a copy of the following:

**1. DEFENDANT CITISTAFF SOLUTIONS, INC.'S RESPONSE TO PLAINTIFF OWEN DIAZ'S INTERROGATORIES – SET ONE**

on the attorney(s) for the parties to this action by the following method:

**BY MAIL:** By placing same, with postage fully prepared, in the United States Mail, addressed as indicated below. I am readily familiar with the practices of these law offices for collection and processing of correspondence for mailing with the United States Postal Service. Such correspondence is deposited with the United States Postal Service in the same day in the ordinary course of business.

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*Attorneys for Defendant*  
**WEST VALLEY STAFFING GROUP**

[FEDERAL] I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made, under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 4, 2018 at Los Angeles, California.

*Lorna Hatch*  
Lorna Hatch